

LAND LAW (IRELAND) ACT, SEC. 21.

---

RETURN to an Order of the Honourable The House of Commons,  
dated 29 August 1883;—*for*,

RETURN "of the SHORTHAND WRITER'S NOTES in the following CASES under  
the 21st Section of 'THE LAND LAW (IRELAND) ACT, 1881':—

Date of Hearing.			
8.12.81	.	.	Dingua v. Cooper.
16.12.81	.	.	Hogan v. Creagh.
20.12.81	.	.	Leary v. Colthurst.
23.12.81	.	.	Mulcahy v. Charteris.
26.1.82	.	.	Burke v. Stackpoole.
26.1.82	.	.	Meade v. Knight of Glin.
25.1.82	.	.	Gorman v. Smith.
1.2.82	.	.	Green v. Stackpoole.
6.3.82	.	.	McKenna v. Lewis.
8.5.82	.	.	Sullivan v. Crump.
27.5.82	.	.	Langton v. Butler.
27.5.82	.	.	Power v. Fitzgerald.
15.12.81	.	.	Sullivan v. Bowen."

(*Mr. Healy.*)

---

Ordered, by The House of Commons, to be Printed,  
7 March 1884.

---

LONDON:

PRINTED BY HENRY HANSARD AND SON,  
PRINTERS TO THE HOUSE OF COMMONS.

To be purchased, either directly or through any Bookseller, from any of the following Agents, viz.,  
MESSRS. HANSARD, 13, Great Queen-street, W.C., and 32, Abingdon-street, Westminster;  
MESSRS. EYRE AND SPOTTISWOODE, East Harding-street, Fleet-street, and  
Sale Office, House of Lords;  
MESSRS. ADAM and CHARLES BLACK, of Edinburgh;  
MESSRS. ALEX. THOM and Co. (Limited), or MESSRS. HODGES, FISON, and Co., of Dublin.



# IRISH LAND COMMISSION.

---

## A B E T U R N

OF THE

SHORTHAND WRITER'S NOTES in the following Cases, under the 21st Section of the  
LAND LAW (IRELAND) ACT, 1881 :—

	Page
DUIGNAN v. COOPER,	1
HOGAN v. CREAGH,	11
LEARY v. COLTHURST,	16
MULCAHY v. CHARTERIS,	24
BURKE v. STACPOOLE,	34
MEADE v. KNIGHT OF GLIN,	30
GORMAN v. SMITH,	54
GREEN v. STACPOOLE,	68
MCKENNA v. LEWIS,	84
SULLIVAN v. CRUMPT,	96
LANGTON v. BUTLER,	100
POWER v. FITZGERALD,	105
SULLIVAN v. BOWEN,	107

## INDEX OF WITNESSES' NAMES.

	Pages		Pages
Butler, Thomas,	29, 30.	Kane, John,	59, 60.
Burke, Andrew,	36, 37, 38, 39.	Kerr, Thomas,	70, 71.
Bouchamp, William,	56, 57.	Kirk, Mrs. Eliza,	93, 94.
Bowen, Robert,	112, 113, 114, 115.	Kilkelly, John,	103, 104.
Cooper, Colonel Joshua,	8, 9.	Lewry, Timothy J.,	15, 17, 18, 19, 20, 21, 24.
Craugh, Captain J. W.,	16, 16.	Lynch, Michael,	71, 72, 73.
Connolly, Patrick,	31.	Lowne, John,	91.
Cunningham, Michael,	46, 47.	Lewis, Henry O.,	91, 93, 93, 95.
Conidine, Richard,	47, 48.	Langton, Ellen,	100, 101, 102.
Oalliaue, John,	48, 49, 50.	Langton, William,	102, 103.
Cox, William Sydney,	62, 63, 64, 63, 65.	Mahony, Patrick,	23.
Cunningham, Michael,	80, 81, 82.	Mulcahy, John,	96, 97, 98, 99.
Coleman, Patrick,	82, 83, 84.	McCarthy, Patrick,	39, 40.
Cullinan, John (Jnn.)	84.	Moado, Patrick,	50, 51, 52.
Dugnian, Lawrence,	1, 2, 3, 4, 5, 6.	McKenna, John,	84, 85, 86, 87.
Dowse, Thomas,	7.	McKenna, Joseph,	88, 89, 90, 91.
Dwyer, James,	30.	Mason, Thomas,	94.
Dobbin, Richard,	106, 107.	MacGillivray, Daniel De C.	99.
Ebbs, Henry,	5, 6.	O'Connell, Thomas F.	23, 24.
Fetherston-H., Stephen R.	10.	Plunkett, James,	87, 88.
Fitzgerald, Thomas,	31, 32.	Power, Mary,	105, 106.
Fitzgerald, John,	58, 59.	Rordan, John,	60, 61.
Fry, William,	94, 95.	Rocha, John,	61, 62.
Glin, The Knight of,	54, 55, 56.	Stapleton, James,	24, 25.
Gorman, David,	56, 57.	Staplepool, Richard,	44, 45, 46, 73, 74, 75, 76, 77, 78, 79, 80.
Green, Thomas,	68, 69, 70.	Smith, James,	91.
Hagan, Charles,	11, 12, 13, 14.	Sullivan, Patrick,	96, 97, 98, 100.
Hally, James,	26.	Sullivan, Patrick, Jan.,	97, 98.
Hutchinson, Major Wm.	32, 33, 34, 35.	Sullivan, Edward,	107, 108, 109, 110, 111.
Hogan, Mrs. Mary,	41, 42, 43.	Townsend, Robert,	21, 22, 23, 24.
Humphill, Samuel,	52, 53, 54, 55.		
Harrington, John,	111, 112.		
Kane, David,	57, 58.		

# LAND COMMISSION COURT.

BEFORE THE FULL COURT.

THURSDAY, DECEMBER 8, 1881.

Dec. 8, 1881.

LAURENCE DUGNAN, - - - - - Tenant;  
COLONEL JOSHUA H. COOPER, - - - - - Landlord.

## MINUTES OF EVIDENCE.

Mr. E. T. Buxley appeared for the tenant; Mr. Orr appeared for the landlord.

LAURENCE DUGNAN, sworn and examined.

Laurence  
Dugnан

1. Mr. Buxley.—Your sister, Anne, I believe, was married to Kieran Ward?—Yes.
2. Did you know old Kieran Ward?—I did.
3. Did he hold these lands?—He did.
4. Have you got the original leases under which he held them?—Yes.
5. Are these (two leases) the leases under which Kieran Ward, senior, held the lands?—Yes.
6. Did you get these leases over when you got an assignment of the lands?—Yes.
7. When did Kieran Ward, senior, die?—In 1862.
8. Who then came into the farm after him?—His nephew, Kieran Ward, junior.
9. Was he married to your sister?—Yes.
10. How long did he continue to manage the lands?—From the time my sister got married in 1851 up to 1863.
11. Now will you tell us under what circumstances you got an assignment in 1863. Where was Kieran Ward at the time the assignment was made?—He was ill at the time.
12. Just before that had Kieran Ward to your knowledge advertised his interest in these lands?—Yes, I saw it in the "Westmecott Guardian."
13. He had advertised the lands for sale?—Yes.
14. Judge O'HAGAN.—The wife of old Kieran Ward, I believe, died before him, was that so?—Yes, my lord.
15. Mr. Buxley.—Had Kieran Ward fallen into bad habits?—He had; he used to drink and not mind his farm.
16. Did any negotiations—I don't want you to tell what they were—pass between your sister and yourself about your becoming purchaser?
- Judge O'HAGAN ruled question illegal.
17. Mr. Buxley.—Before you took this farm or went into possession had you any conversation with Mr. Godfrey Fetherstone, agent for Mr. Cooper?—I had.
18. What passed between you and Mr. Fetherstone with reference to your becoming tenant of the lands on that occasion?—I asked him would he take me as tenant, that I would go security for the rent, if he would give me over the farm, and hold it for the children, and he said he would.
19. What did he say in answer?—He said he would be very proud if he could get a good tenant.
20. Made no objection?—No.
21. Was anything said on that occasion about any increase or rise in rent?—He said that perhaps Colonel Cooper might raise the land after a few years, and I said, then if he would I would not have anything to do with it. And the next time I saw him he told me there would be no increase of rent he thought.
22. Mr. Orr.—For how long did he say—forever?—He told me he thought that there would be no increase of rent.
23. Mr. Buxley.—Now, did you give instructions to have an assignment prepared?—Yes.
24. I should say, before that did you come to any terms with Kieran Ward, as to what you were to pay to him for the lands?—Yes.
25. What did you agree to pay to him?—£200.
26. Was anything then said about the rent then due?—Yes.
27. You had to pay that?—Yes.
28. A deed was executed?—Yes.
29. Where was that executed?—In the parlor.
30. Who were present at its execution?—My brother, and I think Mr. Elbbs, I think it was.
31. Was Mr. Fetherstone there?—Yes.
32. Which Mr. Fetherstone?—Mr. Godfrey Fetherstone.
33. The agent?—Yes.
34. And your solicitor was there, Mr. Elbbs?—Yes, and my brother.
35. Did you pay the £200?—Yes.
36. That's all then?—Yes.
37. What became of that deed?—At the time I was getting out, signing the lease, Mr. Elbbs asked for that agreement.
38. Just look at that, I believe there is no doubt but that you paid Mr. Elbbs that bill of costs for the execution of the deed—the deed has been lost. This is a simple assignment of the interest to you for £200?—Yes.
39. From that time on did you pay the rent to Mr. Fetherstone?—Yes.
40. You paid the arrears that were then due?—Yes.
41. £106 2s. 7d., and £160 1s. 4d.?—Yes.
42. Those (produced) are Mr. Fetherstone's receipts for the rent you then paid?—Yes.
43. Now, from that time on had you paid rent to Colonel Cooper or his agent for the farm?—To his agent.
44. That was sometime in 1863, I believe, you went into possession?—Yes.
45. What were the first proceedings taken by Col. Cooper after that to raise the rent. When did you first hear of any intention to raise the rent?—Mr. Godfrey Fetherstone died, and Mr. William Fetherstone came in.
46. Do you remember when Mr. William Fetherstone came in as agent?—About 1870 or 1871. I don't know what time, but about that time.
47. In Mr. Godfrey's time there was no increase in the rent?—None.

Dec. 8, 1881.  
Laurence  
Baleys.

48. After Mr. William Fetherstone came in what was the first application to you about paying an increased rent?—I got a notice.

49. Have you the notice?—I lost it.

50. What became of it?—I don't know; word came down to me.

51. It was a notice to the tenants generally?—Yes.

52. What was the purport of the notice?—That they were to take out leases.

53. Judge O'HAGAN.—Can you state positively that notice was lost, or what has become of it?—I haven't it.

54. Have you it in your possession?—No.

55. Mr. BEELEY.—What was the notice to you?—To meet him in Mullingar.

56. Where?—At the Courthouse.

57. Did you meet him at the Courthouse?—Yes.

58. Were other tenants there?—They were.

59. Was Colonel Cooper himself there?—No.

60. Was Mr. William Fetherstone?—He was there.

61. What did Mr. William Fetherstone say to you about raising the rent?—He said they would put on 5s an acre of an increased rent, and give out leases.

62. What did you say?

63. Judge O'HAGAN.—Can you fix any date for this?—I cannot say.

64. As near as you can; I would like to know?

65. Mr. BEELEY.—Was it before you got my letter from Colonel Cooper in reference to the raising of rent? It was before.

66. Before you met him personally—before you ever saw him?—Yes.

67. What did you say to that proposal, to give you a lease and raise the rent?—I told him that the land, I thought, was dear enough, and I could not afford to take out a lease.

68. After that time had you any interview with Colonel Cooper himself and Mr. Fetherstone?

69. Judge O'HAGAN.—Have you got any of your later receipts, may I ask?

Mr. BEELEY.—I have no doubt your lordship wants some explanation as to the terms of trust for Mrs. Ward and her children.

Judge O'HAGAN.—Yes.

70. Mr. BEELEY.—Did you, after your brother-in-law assigned his interest, did you allow your brother's wife and children to remain in the lands?—Yes.

71. And you have allowed them to remain there still?—Yes.

72. You live on another farm at some short distance. Now here is a letter from Colonel Cooper, of November 15, 1872:—

"Sir, I am not inclined to accept your offer, and would not think of giving a lease at a lower rent than I named. However, before settling the matter, I have requested a surveyor to look at the drains, and give an estimate of the expense of dredging. With regard to your remark of withdrawing, and leaving Mrs. Ward to settle her affairs, I have nothing to do with them; you are the tenant and not Mrs. Ward."

73. Judge O'HAGAN.—In what form did the receipts continue to be given, have you got any late receipts?—Yes, there are some; all the receipts are there.

74. Mr. BEELEY.—We don't want the old ones, give us any others you have?—You have them all there.

75. Mr. LITTON.—That letter says, "I am not inclined to accept your offer, what offer is that?"

Mr. BEELEY.—I am going back on that.

Judge O'HAGAN.—I am a little puzzled by that because the question of giving him £200 out of his own hands and then acknowledging a trust, that would not leave him one atom of beneficial interest in the place.

Mr. BEELEY.—That was rent due before the assignment to him.

Mr. BEELEY.—I paid then after signing the agreement.

Judge O'HAGAN.—This is in 1864.

76. Mr. VERNON.—Do these (receipts) refer to the arrears paid on going into possession?—Yes.

77. Mr. BEELEY.—Now to go back again. Prior to

this letter, after this meeting of the tenants in Mullingar, I think you said you had a personal interview with Colonel Cooper?—Mr. Fetherstone wrote to me in November.

78. Had you a letter from Mr. Fetherstone?—Mr. Fetherstone wrote me a letter in November, 1872.

79. Have you got that letter?—I have not.

80. What month was that?—November, 1872.

81. What did Mr. Fetherstone say in the letter?—He told me to meet him in Dunboyne, Colonel Cooper's residence, on such a day, and it was about the 8th of November.

82. What day did you go to Dunboyne do you recollect?—About the 9th November.

83. Did you see Colonel Cooper on that occasion?—Yes; the first time ever I saw him to know him.

84. What passed between you and Colonel Cooper and Mr. Fetherstone on that occasion?—The two of them met there, and Colonel Cooper brought me up and told me that he was going to raise the land to an increased rent, but that he would give a lease, and I told him the land was dear enough as it stood, and I wanted no lease if he would leave me the way it was. And he said he would not, that I should pay 10s. per acre and he would give a lease along with it. And I told him that I could not afford to give that, that I paid a great deal of money for it. Then he said that I should pay the increased rent, he would not leave it any longer. He said he would drain the land and do improvements on it, and he asked me what I would give them. I told him I thought about £10 or £15 would be as much as I could put on, and he said that would not do.

85. Did you say anything as to why you wanted a lease?—No, I told him I did not want a lease, and he said the lease should be given, to any rent he pleased I should take the lease. And I said I wanted no lease, that I would be better off without it.

86. Did he say anything about sending in proposals?—Yes, I said I could give no more until I went home and acquainted other people with it, and I went home and wrote a proposal.

87. This letter of November 15, 1872, to Col. Cooper. I presume this was written by your wife?—Sister.

"I write according to promise to let you know what I propose giving for the lands of Ballaberry. I have consulted my friends and come to the conclusion that £5 an acre of an advance would be a fair rent. I cannot afford to give it more. And if this proposal be not accepted I must then withdraw and leave Mrs. Ward and family to arrange their own affairs as best they can afterwards. Of course, I shall expect a lease and also that the lands shall be drained, as there is a great deal of it of very little use to me in its present condition."

We enter that, my lady. It is in answer to that that this letter of 15th November, 1872, was written, that I have already read to your lordship, in which Col. Cooper remarks that, with regard to withdrawing and leaving Mrs. Ward to settle her affairs, "I have nothing to do with them, you are the tenant and not Mrs. Ward."

Judge O'HAGAN.—That is perfectly compatible with his position as trustee.

88. Mr. BEELEY.—You then sent in that proposal and it was not accepted?—Not accepted.

89. What was the next communication you had as the subject as far as you recollect?—I was serving from Mullingar when I was served with notice to quit.

90. This (notice of March 1865, 1873) is the notice to quit?—Yes.

91. Did anything occur in reference to the rent between November, 1872, and the time in March when you were served with this notice?—He wrote saying he would not accept the proposal.

92. After being served with that notice to quit, had you any further communication with Mr. Fetherstone or Colonel Cooper in reference to taking a lease?—The next morning after receiving that notice to quit a

letter came from Colonel Cooper saying he would take proposals.

123. Have you got that letter?—I have not.

124. Mr. Orr.—I would like to know what search he has made for this letter.

125. Judge O'HANAN.—What became of it?—Oh, it was lost.

126. Mr. Orr.—When did you look for it last?

127. Mr. Bowley.—Did you look before those proceedings?—It rested, I "drew" it away.

128. Since those proceedings did you look for all documents in connexion with this case?—I did.

129. Did you look for all letters from Col. Cooper, did you find this letter, here?—Yes.

130. Did you find any other letter?—I could not find any other letter.

131. Will you tell us the contents of that letter?—He said he would take in proposals for the farm from that day forward.

132. What was the next communication you had either with Col. Cooper or Mr. Fetherstone in reference to the lease or in reference to the increase of rent?—I had no more until I wrote answering that letter, saying of course I must submit.

Mr. Orr.—We have no such letter.

Mr. Bowley.—Have you any letter written before that time and the date of the lease?

Mr. Orr.—No.

133. Mr. Bowley.—What happened next in reference to the lease?—It was in September, 1873.

134. What occurred then?—A lease was sent to me by post, a draft.

135. Did that come from Mr. Fetherstone?—Yes.

136. Ready drawn?—Yes, ready drawn.

137. Of course, is Mr. Fetherstone the agent?—Mr. William Fetherstone.

138. Was that accompanied by any letter?—Yes, he wrote a letter saying—

139. Have you got that letter?—I have not.

140. What was in that letter?—For to go up to his son and he would draw the lease, or make the lease; his son William Fetherstone.

141. Judge O'HANAN.—The letter was from Mr. Geoffrey Fetherstone?—Mr. William Fetherstone.

142. Mr. Bowley.—And he directed you to go to his son, Mr. Fetherstone of Railland-square, the solicitor, and have it engrossed?—Yes.

143. Did you take it up to Mr. Fetherstone?—I did.

144. What did he tell you?—He told me to go to my solicitor, that that was a stringent lease and he would not like to have anything to do with it.

145. You ultimately signed that lease?—Yes. I gave it then to Mr. Ebbs and he drew the lease.

146. And then some negotiations took place between Mr. Ebbs and Mr. Fetherstone and ultimately you signed the lease we now produce?—Yes.

147. Mr. VERNON.—Do you fix the date on which the draft lease was sent to you?—It was in September, 1872.

148. Mr. Bowley.—September, 1873?—Oh yes, 1873.

149. Now, Mr. Duglass, what buildings are there upon this holding?—I built in 1873.

150. Before you came in there, what buildings were on the farm when you went in originally?—There was a dwelling-house and offices, and barns.

151. Is it a good dwelling house?—It is an old home, built I suppose 90 years ago.

152. Who is that built by, can you tell?—Old Kieran Ward.

153. Now, was there a shed on it?—There was. There was a new shed built by young Kieran Ward, his nephew; a stable.

154. And a stable?—That stable misses an office about sixty feet long.

155. Did you build anything since you came in?—Yes, I built in 1872. I knocked down an old stable and put up a new one.

156. I believe you get some compensation for that stable?—Yes, I get £10 or £12.

157. Another letter, my lord, has turned up, written immediately after the notice to quit, produced now by the other side, that is a letter of 21st March, 1873, I presume to the agent from Dalglass, written by his master.

"Sir—I cannot tell you how surprised I was to receive the notice which you sent me, I did not think the affair would take this turn, perhaps I was wrong in not answering your last letter at once, but then other people had to be consulted as well as myself and I expected a little more time to consider on so important a matter before coming to a decision. I shall be very glad now if you will kindly appoint a day you can see me in Mullingar or elsewhere when a satisfactory arrangement I trust can be come to between us."

Had you any meeting with him after that?—No.

158. He never answered that?—No.

159. Well, now, what kind of land is this, what is the quality of this land?—There is some of it fair land, pretty good.

160. Some of it is marshy, is there not?—Yes.

161. How much?—About forty acres.

162. About forty Irish acres?—Yes.

163. What sort is the other land?—The other is pretty fair, some of it good and some of it middling.

164. What would you say, in your opinion, is the fair letting value of the moory part, how much an acre?—I cannot say exactly, I think it might not set for more than 15s. or 16s.

165. You pay all around £3 8s. an acre?—£3 8s. 6d.

166. What is the other, the better portion of the land, worth?—The other would be worth, I suppose, upwards of £3 10s.

167. How many acres would be worth about that?—I suppose at £2 5s. there would be about twenty acres or fifteen acres.

168. Now, the balance, what would the value of that be, would it be something intermediate?—I suppose the other part would not be worth over 3s. or 30s.

169. As a matter of fact have you farmed this land yourself by means of your sister-in-law; is she not living on the land?—Yes.

170. Do you look after the farming and manage her, and buy and sell?—Yes.

171. Have you kept any account of late years of the expenditure and receipts from the farm?—The last four years I told them to hold the farm, to manage it as well as they could themselves and see what they could make of it.

172. What profit if any has been made out of the farm in that time?—Nothing at all; it is going back.

173. Now after the Land Act passed did Colonel Cooper's conscience strike him, did he write any letter to you, did he find then your rent was a little too high?—He did.

174. Did you get any letter from Colonel Cooper immediately after the passing of the Land Act?—I did.

175. Is this the letter?—

"I shall attend at the Greatvile Arms, Mullingar, on the 20th inst., to collect rent, and should be glad if you could meet me, or if more convenient send me a cheque for the amount. I thought a good deal about your saying the rent was too high and the land was not worth it, and I must say, taking all the circumstances of your farm into consideration, I cannot allow it is too high a rent. However, I shall be glad to hear from you what you consider the rent ought to be. I have not acted on my own judgment in the matter, and I am aware if the farm was in my own hands, I should give a far higher price, still I should be glad to have your views on the subject."

Judge O'HANAN.—Was there any answer to that letter?

Mr. Bowley.—Yes—

"Sir,—I beg in reply to your letter of the 28th inst., to say that I have been advised to take the necessary steps to

29th September, 1881.

"Sir,—I beg in reply to your letter of the 28th inst., to say that I have been advised to take the necessary steps to

B 2

Dec 5, 1881.

Laurence  
Duglass.

have the lease of my holding, which was imposed on me by threat of eviction, set aside, unless you accept surrender of the lease, and replace me in the position I was in before it was executed. I shall feel obliged by your informing me at your earliest convenience whether you will do this."

The next letter is a letter of the 1st October, 1881, from Colonel Cooper to Duglass—

"Sir,—I received your letter of the 29th September. I cannot at present give you an answer about your going into court to break the lease or what steps I may be advised to take. With regard to the surrender of your lease and putting you back at the old rent, I could not do it."

The next letter is evidently written to Mr. Mooney, solicitor, by Colonel Cooper—

"October 11th, 1881.

"In answer to your letter of the 16th inst. I cannot accept a surrender of the farm and go back to the former rent. I have no objection whatever to Mr. Duglass applying to the court to break the lease, I only doubt the court doing it, and then things will be left as they are. I am willing to give a certain reduction, as the drainage has not turned out as useful as I thought it would, at the same time it must be remembered I have to pay the rent-charge as usual."

We enter that.

Mr. VANCE.—The rent-charge there referred to, is that a Board of Works loan?

Mr. Orr.—Yes, Colonel Cooper on the faith of this lease borrowed money. He is under a rent-charge of £15 odd.

## Cross-examination.

146. Mr. Orr.—Who did you consult, Duglass before you wrote the letter of 29th September, 1881?

Judge O'HANAN.—I would like to know with regard to this drainage. Colonel Cooper has been paying the Board of Works?

Mr. Orr.—And will have to pay for twenty years.

Judge O'HANAN.—Is he, under the Drainage Acts, being repaid by the tenants?

147. Mr. Orr.—No. There is just this rent paid to Colonel Cooper. (To witness)—who did you consult before you wrote this letter of the 29th September, 1881?—Mr. Mooney.

148. I suppose it was he pointed out to you you had taken the lease under a threat of eviction?—Yes, I told him I had.

149. You had never mentioned it to Colonel Cooper or anyone else before?—I did, I mentioned it to Mr. Fetherstone.

150. When?—Last June, when I was paying him the rent.

151. During the present year?—Yes.

152. Which of the parties was it that compelled you by threat of eviction to take the lease, was it William Fetherstone, or Godfrey Fetherstone, or Colonel Cooper?—I was handed the notice to quit.

153. Ah, which of the parties was it, sir, that compelled you by threat of eviction; which of them was it that told you if you did not take the lease you would be evicted?—Colonel Cooper.

154. Told you you would be evicted?—No, he wrote to me.

155. Where is the letter in which he wrote to you you would be evicted if you did not take a lease?—I don't know.

156. Now, you have sworn Colonel Cooper wrote to you that if you did not take the lease you would be evicted, where is that letter?—He said he would take in proposals.

157. Is that your threat of eviction, sir. That letter is not forthcoming, and Colonel Cooper cannot remember it. Was there in that letter that if you did not take a lease you would be evicted?—That if I did not give the increased rent?

158. Judge O'HANAN.—What Mr. Orr is asking you about is this, about the contents of the letter that Colonel Cooper wrote to you, and which you said formerly was a letter stating he would be ready to receive proposals; was there anything in Colonel Cooper's letter except that he would be ready to receive proposals?—No.

159. Mr. Orr.—And that is the only threat of eviction?—Yes.

160. Godfrey Fetherstone is dead?—Yes.

161. And William Fetherstone is dead?—Yes.

162. Now, of course you never wanted a lease?—No.

163. You never wanted a lease?—No; until he told me the first time I saw him in Dunbone that he should give a lease to all his tenants.

164. Did you not understand that that lease was for the benefit of the tenants?—Yes, but the increased rent would not be for the benefit of the tenants.

165. You are making up two things, the increase of rent and the lease. If the rent was to be increased did you not understand it was to be a benefit to you to have the lease?—He told me I should take out the lease.

166. Did you not understand it was a benefit to you?—Oh, I don't know.

167. Did you not understand that?—(No answer.)

168. Did you not understand that that promise of a lease to you and the other tenants was meant as a benefit for you?—Of course I did.

169. Did you not understand it as a promise by Colonel Cooper and not a threat?—He told me I should take it.

170. Did you not understand he was making a promise and not a threat?—I told him I did not want any lease.

171. Answer my question. Did you not understand Colonel Cooper was making you a promise and not a threat?—I don't understand.

172. Why, you wrote on 15th November, 1872, "Of course I shall expect a lease." What did you mean by that, sir?—The agreement was that the lease should be given.

173. Were you not holding him to his agreement?—Yes.

174. Did you not mean by that letter to represent you were holding him to his agreement, did you not, sir?—He told me that.

175. Will you answer a question for once in your life. Did you not mean by that letter to convey to Colonel Cooper you were holding him to his agreement to give a lease?—Oh, I don't know.

176. What did you mean by "Of course I shall expect a lease," what did you mean by that?—I don't know.

177. Did you mean to convey by that that Colonel Cooper had been threatening you he would turn you out if you did not take a lease?—That he must have an increased rent.

178. You understood he was insisting on an increased rent?—Yes, and that he would give a lease.

179. Did you not understand if you agreed to pay the increased rent, he did not care whether you took a lease or not?—I never asked for a lease.

180. You never asked for a lease?—No.

181. You swear that?—I never asked for a lease before I met him in Dunbone.

182. You never asked for a lease before he told you he would increase the rent?—Yes.

183. Don't you know that the agent and Colonel Cooper were perfectly willing you should remain as tenant from year to year if you paid an increased rent?—He told me the lease should be taken out.

184. Don't you know he did not care whether you took a lease or not, provided you paid the increased rent?—I would rather not take the lease.

185. Is that an answer to my question?—Of course when I had to submit to it.

186. To what?—To taking it out.

187. When had you to submit to taking it out?—He told me in his own place.

188. Who told you?—Colonel Cooper and Mr. Fetherstone.

189. Was that before you wrote that letter?—It was before it.

190. Then why did you say, "I shall expect a lease"?—Because he talked of giving it.

191. Would you not rather have had a lease than

## MINUTES OF EVIDENCE

5

See p. 184.  
—  
Laurence  
Dugnac.

be charged less even!—Oh, of course; I would rather have a lease if I could.

192. If he had offered you a lease at the old rent would you rather have the lease or a yearly tenancy?—I would rather have the yearly tenancy.

193. You would then!—Of course I would.

194. Having read the 21st section of the Act of 1881—I did not know anything about that then.

195. How far is this farm from the town of Mullingar?—About a mile.

196. Did you ask let any of it?—No.

197. Sure!—No.

198. Have you let any to the Cricket Club?—They used to play some cricket there.

199. How much have you let to the Cricket Club?—They used to occupy two or three acres.

200. And what did they give for that?—They used to give £10, I think.

201. And you reserved the right of grazing?—They had it peeled up, and done a great deal of harm.

HENRY EBBS, sworn and examined.

Henry Ebbs.

202. Mr. Bowley.—Mr. Ebbs, do you recollect in 1885—perhaps if your recollection be refreshed by looking at your bill of costs?—About that time, yes, I prepared that assignment.

203. Were you present at its execution?—I was.

204. In the goal of Mullingar?—Yes.

205. Have you got that assignment there?—I have not; I made search for it, and could not find it in my office. It was sent to me, for I haven't the draft.

206. Can you tell us whether it was an absolute assignment?—My recollection is it was an absolute assignment.

207. But you had it at one time, and don't know what has become of it?—I had.

208. Turning to this lease of September, 1873, I believe Dugnac called upon you sometime in September?—He did.

209. Did he bring you any draft of a lease already prepared?—He did.

210. Did that bear any solicitor's name?—I believe it was prepared by Mr. Stephen Fetherstone; I won't be positive, I cannot recollect. It was some Mr. Fetherstone.

211. Can you tell us what has become of that draft?—I don't know.

212. Have you made search for all documents connected with that transaction?—I have.

213. This is an entry in your day-book, "Attending you when you showed me a draft lease of Colonel Cooper to you of part of Ballinderry, formerly held by Kieran Ward, and requested me to perse the same." A draft lease was shown you on that occasion?—Yes.

214. Was the lease that you afterwards prepared founded upon that draft to any extent, do you recollect?—I believe it was that lease was engrossed and sent back, after being perused.

215. Judge O'HAGAN.—Just take care, so as to identify. Dugnac brought you a draft?—He did.

216. Which draft he stated he had got?—Yes.

217. When he brought you that draft what did you do with it?—My recollection is that after perusing that draft I had it engrossed. I think there is an entry to that effect in my book. That is an exact copy of the entries in the day-book.

Mr. Bowley.—I only see one engrossment in it.

218. Judge O'HAGAN.—Then you say you engrossed that draft?—Yes, the draft was engrossed and given to Mr. Dugnac, or left with Mr. Fetherstone, I forget which, but I was afterwards instructed to prepare a second lease, and the first one went for nothing.

219. A lease was engrossed of the first draft?—Yes.

220. Do you know what became of that engrossment?

221. Mr. Bowley.—Look at that (produced). Mr. Ebbs, is that it?

222. Did you get £10 a year with the right to grazing?—Yes, they had peeled it up, and there was a great deal of injury and loss on it.

223. Was it Mr. Ebbs that prepared this last lease for you?—Yes.

224. You instructed him?—Yes.

225. And he drafted the lease?—Yes.

226. The lease that was executed was not the lease you got from Mr. Fetherstone?

Judge O'HAGAN.—Think of what you are saying before you answer.

Witness.—There were two drafts.

227. Judge O'HAGAN?—Was the draft of the lease that you actually executed prepared by Mr. Ebbs?—Yes.

228. Prepared by Mr. Ebbs, your own solicitor?—Yes, I got two, Mr. Fetherstone wrote one, and Mr. Ebbs the other.

Judge O'HAGAN.—We will hear Mr. Ebbs on it.

229. Judge O'HAGAN.—Is that the engrossment of the first draft?—It is, my lord.

230. Mr. Bowley.—Was this engrossment a copy of the draft which was brought to you by Kieran Ward?—I believe it was.

Judge O'HAGAN.—Is there any clerk's date on the back of that?

231. Mr. Bowley.—No. (To witness).—Have you got there the date of the re-engrossment?—I have here a memorandum on November 7th. Having received letter from you with draft lease, which, since the engrossment had been approved of and altered by Colonel Cooper's solicitor, and requesting me to have same re-engrossed."

232. Then that first engrossment was not approved of by Colonel Cooper's solicitor?—Well, it had come from Colonel Cooper's solicitor.

233. Judge O'HAGAN.—When you engrossed the draft lease which Dugnac brought you, what did you do with it?—I think I gave it back. My recollection is that I either gave it or sent it to Dugnac.

234. Was it to Dugnac or Mr. Fetherstone, can you say?—I will just see. It was in September. I find here I sent them to Laurence Dugnac himself.

235. Sent thus to Laurence Dugnac?—Yes, the first engrossment. I find an entry to that effect, that on the 22nd September I sent the engrossment to Laurence Dugnac.

236. Well then what happened?—Then on the 7th November I had an entry. "Received a letter from him with draft lease which since the engrossment had been approved of and altered by Colonel Cooper's solicitor, and requesting me to have same re-engrossed," and the next entry is the engrossment of the lease again.

237. Did he send you back a new draft?—He did, my lord, it had been altered, evidently, the engrossment had been altered.

238. You made an engrossment, you sent that to Dugnac, and Dugnac then sent you back not the engrossment but a written draft?—Yes, my lord, a written draft.

239. Did that draft purport to be prepared in any solicitor's office?—That I cannot remember.

240. Do you know what became of it?—I do not, my lord, I made search for it and could not find it.

241. Did you engross the new lease from that?—I did, my lord, then I sent the last engrossment to Messrs. Fetherstone for comparison. They gave them back to me for naps, and I had the nap pot on. Then I sent them to Mr. Dugnac to have the boundaries marked and certified by Mr. Fetherstone, I think, the agent, and I received them back certified.

242. Mr. Bowley.—You sent that draft back to Messrs. Fetherstone?—I did. I sent the leases for

Dec. 5, 1901.  
Henry Ebbs.

comparison, therefore I must have sent the draft with them.

243. Judge O'HAGAN.—Did you yourself make any alterations whatever in either draft?—I cannot remember, my lord, that I did. I went through them with Mr. Dugnan at the time, but I don't remember making any alteration.

244. Either in the first draft or the second draft?—I don't remember having made any.

245. Mr. Bealey.—I presume you did not introduce into that last lease any more stringent provisions than were in the first engrossment?—No.

246. That provision about unexhausted measures was not in the first. I suppose, Mr. Ebbs, that is all you know about the transaction?—That is all I recollect.

Judge O'HAGAN.—I should like to have a copy of that bill of costs.

Witness.—This (produced) is an exact copy.

247. Mr. Orr.—I suppose, Mr. Ebbs, you were Dugnan's regular solicitor?—That was the only business I ever did for him.

248. I thought you prepared the assignment?—Yes, I prepared the assignment.

249. Mr. Bealey.—I believe you were in point of fact brother-in-law to Mr. Fetherstone, the agent?—I was to Mr. Godfrey Fetherstone, and that is the way I came to prepare the assignment. And then I went down on a visit to him and went with him to the goal along with Dugnan and his brother to have the money paid, and read over the agreement to him.

#### LAURENCE DUGNAN, RE-EXAMINED.

257. Mr. Bealey.—Do you remember getting an engrossment of a lease from Mr. Ebbs, and taking it to any person. Do you remember, before the lease was finally settled, your getting any parchment document from Mr. Ebbs?—Yes, the first one, I got it by the post.

258. What did you do with it when you got it?—I don't understand.

259. When you got that document, the first one, from Mr. Ebbs, to whom did you take it?

260. Judge O'HAGAN.—What did you do with it?—I brought it down—I don't know what—I cannot recollect.

Mr. Bealey.—There is no harm in putting a leading question.

Mr. Orr.—I think there is every harm in it.

261. Mr. Bealey.—Was that shown to Mr. Fetherstone. Do you understand what that document is?—I do.

262. What is it?—It is an agreement about a lease.

263. Judge O'HAGAN.—It is an engrossment intended to be a lease?—Yes.

264. You say you got that by post?—Yes, from Mr. Fetherstone.

265. No, no; but from Mr. Ebbs you said you got it?—I don't recollect.

266. Do you recollect getting it from Mr. Ebbs at all?—I forgot.

267. Have you any recollection at all about these leases?—I have.

268. Mr. Bealey.—Just for a moment. Had you any communication at all with reference to the lease with the solicitor for Colonel Cooper?—No.

269. At the time the lease was being prepared?—No.

270. Did you see Colonel Cooper's solicitor?—No, I never saw him.

271. Judge O'HAGAN.—Mr. Fetherstone?—Mr. Fetherstone was the agent.

272. But Mr. Fetherstone, the solicitor, did you see him?—Oh, yes, yes.

290. Your introduction to Dugnan was through Mr. Godfrey Fetherstone, the former agent?—It was.

291. Judge O'HAGAN.—Did Dugnan send over both these engrossments, or did you read them over both to him?—I cannot recollect. The only thing I recollect is that, from the entry, he sent me by post the second draft stating that alterations had been made to it, and it had been approved of by Colonel Cooper's solicitor, and requesting me to have it engrossed.

292. It came from the country in that way, and you simply had it engrossed and sent down?—Certainly. I sent it to the Messrs. Fetherstone to be compared, and they sent it back to me for inspection.

Mr. Orr.—He stated that alterations had been made.

293. Judge O'HAGAN.—Did you read it over yourself before giving this second draft to be engrossed?—I should think I did, my lord.

294. Have you any recollection?—I have not.

295. Have you any recollection of having had in your mind the difference between the two?—I cannot say that now. His letter to me stated they had been altered and approved of by Colonel Cooper and his solicitor, and requested me to have them engrossed and sent back.

296. Have you that letter?—It might be in my office but I am perfectly certain—the entry in the day-book is in my own handwriting, taken down at the time, therefore I can state positively what was in the letter.

297. You told us in your direct examination you went to him with the draft, and he told you it was too stringent and would have nothing to say to it?—Yes, Mr. William Fetherstone.

298. Mr. Bealey.—Did you see him on more than one occasion with reference to this lease?—I did.

299. Did he give you more than one draft on any occasion?—I think not.

Mr. Orr.—Mr. Stephen Fetherstone is the solicitor for the landlord and not Mr. William Fetherstone.

300. Judge O'HAGAN.—Was it Mr. William Fetherstone or Mr. Stephen Fetherstone that told you to go to your own solicitor?—Yes, Mr. William Fetherstone.

301. Then you brought a draft of the lease to Mr. Ebbs?—Yes.

302. Who had you got that draft from?—William Fetherstone, the agent.

303. Then you left that with Mr. Ebbs?—Yes.

304. Then did you not get it back from him?—Yes.

305. And did you get that parchment document back from him?—Yes, I think I did.

306. What did you do when you got it?—

307. Mr. Bealey.—Did you take it to the agent or anybody?—I left it to the agent, I think so.

308. Judge O'HAGAN.—Have you any recollection afterwards of what occurred?—Nothing.

309. Do you remember anything about there being a new draft?—Yes, Mr. Ebbs said that would not do.

310. Before you came to Mr. Ebbs did you send him a new draft?—No.

311. He says you did!—I cannot recollect it.

312. Have you any recollection of getting a new draft from Mr. William Fetherstone?—No.

313. Mr. Luttrell.—Do you remember writing a letter to Mr. Ebbs, and sending him any document that you had brought away from him—the first draft?—No, I don't recollect.

THOMAS DOWSE, sworn and examined.

Dated 4, 1882.

Thomas  
Dowse,

290. Mr. BESLEY.—Mr. Dowse, you are a valuer; I believe?—Yes.

291. And have had much experience in the valuation of land?—Yes.

292. Did you visit this farm at Bellinderry?—On Monday last.

293. Did you make any valuation of it?—I made a field, or division valuation carefully.

294. What is the character of the land, does it vary in its character?

Mr. O'GRADY objected to the evidence as irrelevant to the issue.

Judge O'HAGAN admitted question.

295. Mr. BESLEY.—Mr. Dowse, have you got any details of your valuation?—I have.

296. How many Irish acres did you make in it altogether?—I was given a list of 166 Irish acres, some small quantity, which I made up to 169a. 3s. statute.

297. Now, what is the best portion of that worth?—

Judge O'HAGAN.—I rather think you should shape your question with reference to its value at the time of the lease.

298. Mr. BESLEY.—Of course. Mr. Dowse, you had experience of the value of that whole farm in 1873?—It may be well if I give you just the divisions, it will not occupy a moment. I valued 71a. 3s. and 21s.

Judge O'HAGAN.—We are speaking of its value at that time.

Witness.—How many years back, Mr. Besley?—

299. Mr. BESLEY.—Eight years ago?—I would say it would be ten per cent. fully more than the value now.

300. Mr. VERNON.—Will that be your evidence, that the value of land in Westmeath is only ten per cent different now from 1873?—Not more.

301. Mr. BESLEY.—You know this part of Westmeath very well?—Part of it I know very well—some of the good lands, but I was not prepared to find as much bad land on this farm as I found.

302. What portion of it was bad?—I found 47 statute acres as had a bog as ever I walked on with the exception of part of the bog of Allen.

303. I presume that is not worth £2 8s. an acre?—I valued it at 6s. 2d. the acre statute; now adding ten per cent to that, I think would be the value ten years ago. I valued 71a. 3s. 21s. at 2s. the statute acre, £107 1s.; ten years ago it would be worth £117.

304. What about the meadows of the lands?—And I valued 43a. 1s. 2s. at £1 5s. the acre.

305. Mr. VERNON.—Statute?—Yes, all statute acres. That would amount to £54 5s. 2d., add £5 10s. to that.

306. Judge O'HAGAN.—What is your aggregate present value?—The whole value is £178 1s. 1d.

307. Mr. BESLEY.—Now, add 10 per cent. to that.

Judge O'HAGAN.—£195 14s.

308. Mr. BESLEY.—£196 would be the fair letting value of that in 1873?—Yes.

309. Do you consider the present rent a reasonable rent?—I have not exactly heard the present rent.

310. £110?—I have another way, my lord, of valuing lands, when I make a field valuation I look at the land and say, this land should produce all round £4 the Irish acre, and that generally agrees with my field valuation when I took it after. That would be £420, I presume for taxes, and about £50 or £60 more

for loss and for labour, there is very little labour on the farm. I think that would come to about the same value I put on it.

311. Mr. VERNON.—Is it nearly all in grass?—Nearly all in grass, but about about ten acres.

312. Was your attention called to the drainage?—It was particularly.

#### Cross-examination.

313. Mr. O'GRADY.—Were you told who did it?—I think the drainage did more harm than good.

314. You were told who did it?—Yes, I was.

315. And having been told Colonel Cooper did it, you considered it did more harm, I can understand that?—It did harm, the banks were thrown up on both sides the artificial drain and prevent the surface water going into it. I advised that to be removed and top-dressed over the coarse part, and some spade drains dug into it, which would have cost £10 more, and made a good job.

316. In valuing this land did you consider its proximity to Mullingar?—I didn't consider that; I would sooner have the land four miles away from Mullingar than where it is, unless I was allowed to till it.

317. If the landlord had it in his own hands he could not get any more for it within a mile of Mullingar than four miles away?—Unless for a cricket field.

318. The townspeople never want accommodation land there?—I asked the question and was told they would not be permitted to break it up.

319. Would you go so far as to say it would be less value if twelve miles away?—Yes.

320. Then what is the difference between twelve and four?—Because twelve miles away it would take a man the whole day and night to drive out to the railway and back again, and for two or three miles off the same time would be lost as if it was close to the town.

321. Were you told who paid the taxes?—No. I assumed the landlord paid half and the tenant half the poor-rates.

322. Then the county cess—who do you suppose would pay it?—I did not ask the question.

323. As a general rule the tenants pay the whole of the county cess?—As a general rule they do.

324. How long experience have you had in valuing land in Westmeath?—About ten years ago I valued a large townland in Westmeath.

325. Where has your experience been?—Kildare, Wexford, Wicklow, part of Meath, part of Westmeath, and King's and Queen's counties.

326. How long have you been at that?—The last twenty-seven or thirty years.

327. In that thirty years how much has land gone up?—In some parts of Ireland it has gone up and in some parts it has gone down; very good lands increased in value, and very bad lands decreased.

328. Should you say Westmeath has increased or decreased?—Part of it—the bad land has decreased.

329. Coming to the point—has this land increased in value in thirty years?—It has increased.

330. How much?—I dare say fifteen per cent, at least.

331. And if you found a tenant paying a rent in 1833 you would not be surprised at his paying fifteen per cent. more now?—No, even for that quality of land.

Dec. 6, 1882.

Colonel Joshua H. Cooper,  
Colonel Joshua H. Cooper.

Colonel JOSHUA H. COOPER, sworn and examined.

332. Mr. Orr.—Colonel Cooper, you are the landlord in this case?—Yes.

333. I believe this property was bought in the year 1833 by your family?—Yes.

334. And have you the rental on which it was bought?—Yes.

335. In this (produced) it is Will you look at the holding on the rental which is now occupied by Lawrence Dugnane?—Yes.

336. What is the rent stated of that holding?—£233 8s. 6d. of present currency.

337. But, as a matter of fact, I believe all that was received was £212 8s. 2d.?—I don't know the amount.

338. All that you have been in the habit of receiving prior to this lease was £212 8s. 2d.; is not that so?—Yes. In the rental it states that there was an abatement made; it does not state what day. There is a note—Rents abated to £2 an acre, late currency, and there was a recompence added, which brought it up to £212 odd.

339. Mr. Vassar.—Would not £212 8s. nearly represent £233 Irish?

340. Mr. Orr.—Is it £233 British, not Irish. (To witness).—Mr. Godfrey Fetherstone was your agent at the time Lawrence Dugnane first got possession?—Yes.

341. And where were you then?—I was then quartered in Quebec.

342. With your regiment?—With my regiment.

343. And of course you had no direct communication with Dugnane at that time?—None whatever.

344. When did you return to this country?—I did not live permanently in Westmeath until the latter end of 1873.

345. You had some negotiations with Dugnane, had you not, before he took his lease?—Yes, I occasionally visited Westmeath.

346. When was it your regiment was sent to Ireland?—I think it was the year 1870.

347. I believe most of what you know about this is what your agent told you?—Entirely.

348. Mr. William Fetherstone?—Mr. Godfrey and Mr. William Fetherstone.

349. Mr. William succeeded Mr. Godfrey, and most that you had to do with Dugnane you heard from Mr. William Fetherstone?—Yes.

350. You had some direct communication with Dugnane himself?—On two or three occasions he came to me himself, and I think once or twice he wrote to me.

351. Did you ever see him before November 15th, 1872?—No, I did not know him at all, that is the first time I remember seeing him.

352. Up to that time was there any dispute between you, except with reference to the amount of rent he was to pay?—None whatever; nor is there now.

353. In that letter of November 15th, he says, "If this proposal be not accepted, I must only then withdraw, and leave Mrs. Ward and family to arrange their own affairs as best they can afterwards. Of course, I shall expect a lease, and the lands to be drained." Prior to that letter had you ever threatened you would turn him out if he did not take a lease?—No.

354. Was that the first mention of a lease made between you in that letter?—The first I remember.

355. And then you wrote in reply the letter of the 19th November, 1872, that you would not accept his terms?—Yes.

356. Now, had you any further communications with Dugnane himself after that?—No, I don't remember any.

357. Did you ever threaten himself that if he did not take a lease he would be turned out?—No, I never

threatened any man to take a lease; I did not like giving leases, I had a great objection to them.

358. Did you ever authorise anyone on your behalf to threaten he would be turned out if he did not take a lease?—No.

359. That notice to quit, as we know, was signed by you, and afterwards served on Dugnane in March 1873?—Yes.

360. He said that the day after he got a letter from you. You heard him state that in the witness box to-day?—Yes.

361. Do you recollect that letter?—I don't recall the circumstances, what was going on at the time. I was not at home as well as I remember, because Mr. Fetherstone sent me the notice to quit to sign, in a letter, therefore I could not have been at home—because he lives a mile from me and would have brought it if necessary. He gives a long explanation of why the waste course. I don't remember writing the letter—but I believe it is there—the day after receiving it. I have no recollection of writing the letter but I won't say if it is in there.

362. It has not been produced. Did you ever write to Dugnane saying if he did not take a lease he would be turned out?—Never.

363. Was there ever any dispute between you except as to the amount of rent?—No.

364. Were you perfectly willing to let him remain on as tenant from year to year if he agreed to your terms as to rent?—No.

365. Did you ever tell him otherwise?—No.

366. Or authorise anyone to tell him otherwise?—No.

367. Did you do some drainage?—It appears now there is nothing to show where there was any drainage to be done, but it was the chief condition of the whole thing that I was to borrow money and make the drainage.

368. He says in that letter "of course I shall expect a lease and also that the lands shall be drained." Mr. Fetherstone urged me very much to drain the lands under any circumstances, and he said it was a pity to see it undrained. I borrowed a great deal of money, £300.

369. Did you borrow that from the Board of Works?—Yes.

370. And you are repaying it by yearly instalments?—Yes.

371. What are the amounts of the yearly instalments?—Something over £15.

372. This farm is situated within a mile of Mullingar?—Yes.

373. Do you consider the rent excessive?—No, certainly not.

374. Did you consider it excessive in 1873?—No.

375. It was stated here, of course no legal evidence was given of it, that you had served a notice upon all your tenants calling upon them to take leases?—Quite untrue, and as a matter of fact very few of my tenants have leases.

376. With reference to this property in the neighbourhood of Mullingar, can you state from memory how many tenants you have?—Something over forty.

377. Can you state how many have leases?—I don't think there are half a dozen leases on it.

## Cross-examination.

378. Mr. Basby.—Now, Colonel Cooper, you say when you came in you found the rent returned as about £233 in your rent book?—That is long before I came in.

379. You found that in your rental at all events when you came into possession?—No.

380. That is what I understood you to say. What was the rent when you came into possession?—The question I was asked in the first instance was whether I had the first rental, and the answer I gave to that

was that I had; that was many years before I came in, the estate was bought in the year 1833.

381. You did not buy in 1833?—Myself? I did not.

382. Therefore you do not know anything about what took place in 1833. Have you got the original lease or counterpart under which this land was held?—Yes.

383. I mentioned to your lordship the statement of rent, but I did not call your attention to the fact that the statement is endorsed on the lease made in 1833.—*Memoandum.* The rent reserved by this lease was abated by order of the trustees to £149 1s., and Ward was allowed an abatement of £100 1s. 2d. per annum for seven years, from the commencement of this lease, in reduction of arrears returned by Mr. Robinson on the rent of September, 1833."—"The rent reserved by this lease was abated by order of the trustees to £73 1s., and Ward allowed an abatement of £36 1s. per annum for five years, from the commencement of the lease in reduction of the arrears returned by Mr. Robinson." Colonel Cooper, you cannot say you ever got more than £312 6s. out of these lands from anybody up to the time of the lease?—I did not, certainly.

384. Mr. Orr.—Colonel Cooper, where did you find that rental?—It was with the other documents belonging to the estate in the solicitor's office.

385. In your own solicitor's office?—Yes; what Mr. Bowley speaks of took place ten years before the place was bought.

386. Mr. Bradley.—You have no trace in your books from that time up to the making of the lease in 1833 of receiving more than £313 for this holding?—No.

387. Now, as I understand, you were not brought personally in connection with Dugnac here until some time after 1870?—No.

388. Do you recollect ever having a conversation with him at your own house, Dibbone, in company with the late Mr. Fetherstone?—I don't recollect it.

389. You won't say such a conversation did not take place?—No, I won't say that.

390. Can you say, Colonel Cooper, whether in 1872 or thereabouts Mr. William Fetherstone called you in to him together in Mullings to tell them there must be an increase of rent, and they should take leases. Do you know anything of your own knowledge?—Nothing, whatever.

391. Did you extract the management of this estate chiefly to Mr. Fetherstone?—Very much. As a fact the rents have not been raised.

392. Before this notice to quit was served were there not some negotiations between you and Dugnac as to an increase of rent on taking a lease?—I don't think with reference to taking a lease. I have no recollection of a lease being spoken of at all. In 1865, when Dugnac came in, the agent then, Mr. Godfrey Fetherstone, wrote to me—

393. You cannot say that?—Very well, then, you don't want to hear the history of the case.

394. But had you any communication directly with the tenant, or had the agent on your behalf, to your knowledge, about his taking a lease and paying an increased rent?—No.

395. You say that, notwithstanding those letters that have been read here to-day that you considered so important. Now tell me, after this notice to quit was served, I think you say you won't take upon yourself to say you did not write to Mr. Dugnac?—I won't say I did not. I deny what you say was in the letter.

396. Did you not as a matter of fact state that if the increased rent was not paid by him you would take proposals from whoever was willing to become tenant of the farm?—No.

397. To anybody?—No.

398. Did you write it?—I have not the slightest recollection of having written it.

399. Did you have everything in connexion with the lease to Mr. William Fetherstone?—Yes.

400. You have a good many tenants I think about this part of Westmearsh?—Yes.

397. Have you a tenant of the name of Fleming?—Yes.

398. Has he an adjoining holding to Dugnac?—Fleming has left some time ago.

399. I think it is still known as Fleming's holding in popular language?—Yes, I know the place you mean.

400. Is not that holding quite as good or better land than Dugnac's?—I am not a particularly good judge of land, it is not my trade, but I should say not, as you ask the question.

401. Is there anything to correspond with that bog that Mr. Dowse described to-day, on Fleming's holding?—Not Fleming's holding, but on another adjoining.

402. Does not Fleming pay two guineas an acre?—I think he pays something over two guineas.

403. Have you got your books there?—No.

404. Was it not recently let before the present Land Act at that rate?—I forgot the date when that was let, but the proceedings connected with it made me consider my estate was let too low.

405. Can you tell us when it was let?—I cannot remember when it was let.

406. Have you any document in court?—They have nothing here that would show.

407. Was it let within the last three years?—Oh, no. The case is not in any way before the court as far as I can understand.

408. Mr. Orr.—How far is Fleming's holding from Mullings?—It is about a statute mile and a half.

409. Mr. Bradley.—I suppose, Colonel Cooper, you won't deny what is stated in your letter, that these drainage works have not turned out so to say great advantage to the land?—I don't consider it is stated in my letter by any means in the way you have put it to the court, nothing like it. I say the drainage has done a very great deal of good, and if the tenant had taken advantage of it and cut side drains as intended it would have done a great deal more. It has not turned out as useful as I expected because the tenant has not taken advantage of it.

410. What has the tenant not done?—He has not cut side drains. I gave him the main drain and he has not cut side drains.

411. Have you not stated since the commencement of these proceedings that you would consent to this lease being broken if you and Dugnac could agree on the rent?—I told the solicitor I had no objection to the lease being broken if we could agree on the three things, the rent and the value of the holding.

412. Judge O'Hagan.—What was the third thing?—That he should be a present tenant, the lease surrendered and the rent fixed by us, and the tenant-right too. If we could agree on those things I don't mind going back now.

413. Mr. Bradley.—I believe your ideas and Dugnac's about the rent were very different?—Not very.

414. If you choose to name any rent you please and break the lease we are quite content!—Mr. Meacy asked me if I would break the lease and take my chance, and I said "Certainly not."

415. Mr. Larow.—I understand you to say there is not a great difference between you and this man about the rent?—I don't know what his expectations are, I am told they are very great indeed; he was told the court could break the lease.

416. Mr. Bradley.—Will you tell us what reduction on the rent you will give?—I don't know whether I am advised to state that or not.

417. I ask you what reduction you will make?—Perhaps you will allow me to state how the rent is made up.

418. Mr. Vicarage.—You wish to state how the rent was made up?—I know very little of it myself, and when Mr. William Fetherstone, who was a very clever valuator, was appointed my agent in 1868, he made a valuation of the whole estate, he valued this farm at £237, and Mr. Dugnac himself offered something over £238 in the lotter that was read to you to day. The drainage money, the rent-charge for drainage, was added on that, and that brings it up to the present rent.

Dec 2, 1881  
Colonel Joshua H. Cooper

Dec. 8, 1881.

Stephen R.  
Fetherstone-H.

## STEPHEN R. FETHERSTONE-H., sworn and examined.

410. Mr. Orr.—Mr. Fetherstone, you were the solicitor for Colonel Cooper with reference to the preparation of this lease?—Yes.

411. You got that first engrossment, I believe?—I cannot identify that engrossment, but I recollect getting one.

412. Would you look at that (engrossment) please, Mr. Fetherstone?—I did look at it, but cannot identify it.

413. Do you recollect the objection you made to the document sent to you?—I do.

414. And does that apply to the documents in your hand?—Yes.

415. Judge O'HAGAN.—Who did you make the objection to?—Some engrossment reached me in Mayo, in September, 1873. It was sent the engrossment on an approval fee, no draft at all. I read over the engrossment, and found the part of *Hawkes* was omitted, the covenant to pay rent was not in the lease. I sent them back and declined to approve of them in that shape.

416. Mr. Orr.—I believe the covenant to pay rent is not in that document in your hand?—No.

417. Then the other one was that sent to you?—I returned this lease without objection, and I afterwards, I believe, got a draft to approve of and I think I did approve of it.

418. Judge O'HAGAN.—Have you any entry of any kind, Mr. Fetherstone?—No, because I got nothing but an approval fee, I entered the approval fee and that was all.

419. All the documents you sent then were the first engrossment, you did not see a first draft?—No, certainly not.

420. Then a second engrossment, and then a draft subsequent to the second engrossment?—I think I approved of the draft before it was engrossed the second time.

421. You have not any copy of that draft?—None whatever.

422. And the only entry you have in your book is the approval fee?—Yes.

423. That shows you did not prepare the lease?—Certainly; I had nothing to say to the preparation of it.

424. Do you know anything else, of your own knowledge, with reference to these transactions?—The only knowledge I have is that I remember distinctly Colonel Cooper objecting to give a lease, and I remember advising him to give one for thirty-one years.

## Cross-examination.

425. Mr. Besley.—Now, Mr. Fetherstone, if the clauses in the last lease are more stringent than in the original engrossment, do you think those more stringent clauses were put in by the tenant or anyone on his behalf?—I really have not the slightest recollection.

426. Is that the question. I ask you a matter of opinion, which do you think it came from, the landlord or the tenant?—

427. Judge O'HAGAN.—Mr. William Fetherstone is not living?—No, the agent died in 1869, the young solicitor is alive.

428. Is he in partnership with yourself?—Oh no, my lord, I never had any dealings with him at all.

429. Mr. Besley.—Listen to this. There is a proviso not to make any claim for compensation, that is in the last execution, for disturbance or improvements or for unexhausted moneys put out and spent on the said lands, nor for compensation in any other respect. In this original draft all those latter words commencing with "make no claim for compensation for unexhausted moneys," and "not making any claim for compensation under any subsequent Act of Parliament, and this being a flat bar at law and equity," is not in this. I ask you, as a solicitor, if there is variance between the two, do you think that alteration came from the landlord or the tenant?—If you ask me my opinion, I think I put in those words, but I cannot say without having the draft.

430. Judge O'HAGAN.—You think you altered the draft?—I am quite sure I read the draft when I got it and put in some words, I might have put in those words.

431. Mr. VERNON.—They don't strike you as words likely to be put in on behalf of the tenant?—Certainly not. I think they are taken from a draft Major FitzGibbons had settled at that time for leases in Chancery.

432. Judge O'HAGAN.—You got them down in May during the vacation, you got first an engrossment?—That is the very first document.

433. And you returned that document?—I returned it, and refused to allow Colonel Cooper to sign it.

434. You sent it back to Mr. Elks, refusing to let Colonel Cooper sign it?—I cannot say to whom I sent it back.

435. That throws light on it. Subsequently you got a draft?—That is my recollection; I have not the draft and cannot tell.

436. Probably you refused to approve of the document in an engrossed form which would give you no opportunity for revising it?—I objected to the engrossment.

437. And you sent it back, and you having sent it back to Mr. Elks or whoever you got it from, then you subsequently got the same document in the form of a draft which you could alter?—I cannot say it was the same document.

438. You got a document which you could alter, you altered that on Colonel Cooper's behalf, and sent it back as altered?—I believe I did.

439. Did you subsequently get the engrossment and the draft to compare?—No doubt I did, because I see it marked "compared" in my own handwriting on the back.

440. Young Mr. Fetherstone, the solicitor, did he ever act as solicitor for Colonel Cooper?—I cannot say, my lord.

441. Judge O'HAGAN.—I thought the tenant here did say he saw him in reference to this matter.

442. Mr. Besley.—Is it not probable that this engrossment came to you from Mr. William Fetherstone, the agent, and that your communications were with him?—The first engrossment you refer to?

443. Yet I have no doubt it did.

444. Came from the agent to you with the approval fee from the agent?—I don't know who paid it, but I got a fee of two guineas.

445. But you have no doubt it came from Mr. William Fetherstone?—I have not the slightest doubt.

446. And that you sent it back to him?—And that I sent it back to him.

447. Judge O'HAGAN.—And the draft, from whom did it come?—From Mr. Elks, my lord.

448. Mr. Besley.—Are you sure the second draft came from Mr. Elks?—I have no letter in the book in any way, but I believe I saw Mr. Elks on it.

449. Was not Mr. William Fetherstone, the agent, in the habit of preparing leases himself?—I have no knowledge whatever.

450. Did you ever get any draft from him?—No, except that engrossment.

451. And you know nothing more about the transaction?—I do not.

452. For the same reason, Mr. Fetherstone, if I find that in the original engrossment the covenants against alienation did not include in terms "mortgaging, or depositing, or pledging the lease," they were introduced by you?—I have no doubt whatever I introduced them.

The court reserved judgment.

(BEFORE MR. JUSTICE O'HAGAN AND MR. COMMISSIONER VERNON.)

FRIDAY, DECEMBER 16TH, 1881.

Dec 16, 1881.

CHARLES HOGAN,	Tenant;
JOHN W. CREAGH,	Landlord.

Mr. John Roche appeared for the tenant; Mr. Carson appeared for the landlord.

CHARLES HOGAN, sworn and examined.

Charles Hogan.

1. Mr. Roche.—Mr. Hogan, you are the tenant of this farm?—Yes, sir.
2. You first got the farm, I believe, in 1852?—Yes, sir.
3. Under a letting from the Court of Chancery?—Yes, sir.
4. Did you know the holding before you took it?—Yes, sir.
5. Had you known it for some years before you took it?—Since I was a boy, and come to the years of majority.
6. In whose possession had the holding been before you took it, immediately?—In the late Lawrence Creagh's possession, father to the present landlord.
7. Mr. VERNON.—In his occupation?—In his occupation.
8. Mr. Roche.—For how long had it been in his occupation?—I think about twelve months previous to his death; perhaps not so long, but in or about.
9. In whose occupation had it been previously?—The Rev. John Cooke.
10. He was a middleman?—He had a middle interest in it.
11. Had he let the land to tenants?—Yes, sir.
12. About how many tenants were on the land?—Well, I think there were eight or ten on this portion of it.
13. Mr. VERNON.—What you got yourself?—What I got myself; something about eight, perhaps not so many.
14. Mr. Roche.—What became of those tenants?—Well, some of them went to the poachouse, and some of them went to America.
15. In what state was the land when you got it?—Worn out; exhausted from tillage.
16. Did you know from Mr. Laurence Creagh—did you hear from him—what became of Mr. Cooke's interest?—He surrendered the lands to Mr. Creagh.
17. Did you know at what rent Mr. Cooke held the lands?—I have heard Mr. Creagh say it was a guinea per acre with a lease for ever.
18. Judge O'HAGAN.—Do you mean an Irish acre?—The Irish acre—I was never present at a payment; £1 or a guinea.
19. Mr. Roche.—The first rent, the rent at which you took, was £64 a year?—Yes, sir.
20. When you got into possession, how did you treat the lands?—I ploughed it, sir, in the first instance, and cropped it, manured it, and commenced to dig weeds on it.
21. Were the weeds there in great quantities?—So much so, that every two acres I cleared manured one with others. I burned them and made manure of the ashes—it was in such a state, the greater portion of it.
22. Well, you held under the lease from the Court of Chancery until 1860?—
23. Judge O'HAGAN?—What was the date of the Chancery lease?—1853. I never got the lease, though I paid for it.
24. Mr. Roche.—Did you make a proposal for it?—I did.
25. Well, in 1860, was the rent increased?—It was, sir.
26. To how much?—£90, sir.
27. To take you through the increases of rent at once, was it again increased in 1857?—Yes, sir.
28. To how much?—£100.
29. By the present owner?—By the present owner.
30. And it was again increased to £110?—It was, in 1874.
31. Judge O'HAGAN.—You don't happen to have the Chancery lease?—I did not take it at all, my lord; I never took my side of it.
32. Mr. Roche.—Now, at the time you took the holding on which all these small tenants had been, was there a boundary fence to the place?—No, sir.
33. Did you build a boundary fence?—I did, sir.
34. About what length was this boundary fence?—I think it is very near an English mile between the road and river, perhaps not so much; it is a long distance, there are curves in it.
35. Is it built with stones and dry wall.
36. Mr. VERNON.—Is it a wall or a ditch?—No, a wall, first raised by a mason and then built by a handy man.
37. Mr. Roche.—Had you to quarry the stones for that wall?—I had, sir.
38. And to draft them some distance?—Yes, sir.
39. About how much a perch do you calculate that wall cost you?—Well, I suppose, about 3s., sir, at that time between labour.
40. Judge O'HAGAN.—How many perches did you say it was?—Very near an English mile.
41. Mr. VERNON.—Do you mean a running perch?—7 yards.
42. You mean a running perch?—Yes, sir.
43. Not a perch of masonry?—Oh no, sir.
44. Mr. Roche.—Is there any waste on this farm?—There is, sir.
45. What is the waste?—Well, I have not an accurate idea of what it is. Between the two roads—one goes through the centre of it, and the other around it—and the river, and I should think there should be very close on eight acres of waste between the two. There is a great stretch of reeds on it and the river.
46. Is there any portion of the holding almost valuation?—There is, sir.
47. How many acres would you say is valuation?—I think there are very close on five acres.
48. What is the nature of these five acres?—There is no soil on it, no surface; it is gravel and stones.
49. Is it on a level?—No, sir, it is on an incline, the side of a hill, or a steep hill that a horse, or an animal, or a man could hardly walk up against but with difficulty.
50. And there are five Irish acres in this?—I think so.
51. Has the land a tendency to throw up furze?—Yes, a great portion of it.
52. Does that involve constant expenditure?—It does, sir.
53. In stabbing it up?—Yes, what we call grubbing it up.

Sat 16. 1881.

Charles  
Hogan

54. Well, now, you continued to hold at a rent of £100 until 1874?—Yes, sir.

55. Do you recollect when the first communication was made to you with respect to the increase of rent and lease?—I do, sir.

56. When?—In May.

57. By whom was that communication made?—By Mr. Greer.

58. Who was Mr. Greer?—He was agent to Captain Creagh.

59. Was it in writing or a verbal communication?—In writing.

60. Was that the letter of the 28th May, 1874?—I think so; as well as I can remember it was the first communication I got.

61. Was that the first communication you had with him with respect to the rent?—Or lease; yes, sir.

62. Had you any communication with anyone with respect to the rent and lease before that time?—No, sir.

63. Judge O'Hagan.—This is the very first thing that occurred with reference to this change of rent?—It was.

64. Mr. Roche.—You did not reply to that letter?—Not that I remember. I know I went to him.

65. Mr. Vernon.—To Mr. Greer?—Yes, to Mr. Greer.

66. Mr. Roche.—Take that letter (May 31st), that is a letter from Mr. Greer, in which he requires you to give an answer, either yes, or no?—Yes.

67. After that letter, did you go to Mr. Greer?—I did, sir.

68. Judge O'Hagan.—You are quite sure that nothing had occurred between you and Mr. Greer before this letter?—No, my lord.

69. Mr. Roche.—After the letter of the 31st May, you told us you went to Mr. Greer?—I did, sir.

70. Had you an interview with him?—Yes.

71. Now will you tell the court what occurred between you and Mr. Greer at that interview?—I complained of the advance. I told him on the contrary that I expected the holding at the rate I took it at, in place of increasing the rent that I expected a reduction, and that I did not mind a lease at all.

72. What did Mr. Greer say in reply to that?—Mr. Greer said that he should obey Captain Creagh's orders and that he would communicate with him.

73. Did he say anything with respect to why Captain Creagh wished you to take a lease or would insist on your taking a lease?—He did.

74. What did he say?—He said if I did not comply with his terms he would put me out—that he would evict me.

75. Did he mention a notice to quit to you?

Mr. Carson objected to the question as leading.

76. Mr. Roche.—You received that letter from him on the 9th of June after the interview?—I had different personal conversations with him. Yes, sir, I received this letter from Mr. Greer.

77. You see a notice referred to in that letter?—I think so, sir. There it is, it will speak for itself; that was after the conversation.

78. Had Mr. Greer said anything to you with respect to that notice?—He had, previous to that letter.

79. When was the notice. What did he say to you about it?—If I did not comply with Captain Creagh's request I would be evicted, or in other words put out. Something to that effect.

80. After the receipt of that letter, did you go to Dublin to see Captain Creagh himself?—I did.

81. Can you say when you went to Dublin?—I think, sir, it was on the 28th June, 27th or 28th June, 1874.

82. Mr. Vernon.—You have read that letter in your hand?—Yes, my lord.

83. Do you see the pencil marks on that?—I do.

84. Whose handwriting is that?—It is mine.

85. Mr. Roche.—Well, you went to Dublin to see Captain Creagh?—I did.

86. Did you see him?—I did, sir, at his residence.

87. Will you tell the court now which occurred, the conversation that you had with Captain Creagh, tell it now from the beginning—the whole conversation that you had with Captain Creagh, when you met him in Dublin?—My business with Captain Creagh was to complain of the advance he was putting on me. I considered it unreasonable and unfair, too much I stated so to him. I objected to the grand jury case as being an advance on the rent. He would not consent to it. I would not consent to pay it. I thought I should be entitled to it, being under the Act of 1870. He came down then—he said he would reduce the rent from £10 to £8. I would not be satisfied to consent to those terms if I was not allowed the grand jury case. He would not allow me the grand jury case. I went home and got a letter from him next morning. He wanted me to go into Mr. Thorpe's office to get the lease prepared, and I refused to do so.

88. Did you mention to Captain Creagh anything at the time about your treatment of the holding?—I told him that repeatedly, that I recovered it and improved it, always I told him that; when he lived in the neighbourhood he was aware of it. Yes, when Captain Creagh's letter.

89. That is the letter in which he addresses you as Hogan, and says as you had not consented to his terms when he was in the humour, he would charge you £10 and compel you to take a lease?—Yes, the day previous to that I had a conversation with him in Dublin.

90. Did Captain Creagh say anything at the interview in Dublin about you taking a lease?—He did.

91. What did you say to that?—I said I did not require a lease at the increased rent.

92. After that letter you wrote to Greer to take this lease?—I don't know that I did that.

93. Well, how did you come to take the lease?—I think Mr. Greer came down. When he came down to receive rents, after we had settled, I agreed to take the lease, but I did not take it. I had letters from Mr. Thorpe, Mr. Creagh's then law agent.

94. Mr. Carson.—Have you got three letters?—I think I have.

95. Mr. Roche.—Now, Mr. Hogan, did you take that lease by reason of the threat of being turned out of your holding?

Judge O'Hagan.—That is an inference for the court.

96. Mr. Roche.—Just take that letter (produced)!—Yes, this is from Mr. Thorpe, sir.

97. Mr. Thorpe was the law agent?—Yes.

98. This is a letter dated September 7th, 1874, from Mr. Thorpe to the present applicant:

"Dear Sir.—The Captain wishes to know how it is that you have not taken any steps towards the completion of your lease, he desires me to write to you and request that the matter will be at once finally settled or otherwise he must consider the arrangement heretofore made at an end. If I am to prepare the lease you will please let me know at once, if another solicitor is to prepare it you will be so good as to give him instructions to prepare it immediately, and send it to me for approval on the part of Captain Creagh. In order to save time a set-out at foot the covenants and clauses the lease is to contain, and if you object to any of them you will please let me know. The yearly rent is to be £10 over past former rent, the rest is to commence on 1st May, 1874, fishery and shooting reserved, covenant against subletting and letting in excess, unless with the lessor's consent is writing, tenement to pay all grand jury case, and not to claim under the Land Act for disturbance or improvements, term 31 years. 7th September, 1874."

I believe you did not take out the lease immediately?—No, sir.

99. Had you any subsequent communication from Captain Creagh's agent with respect to taking out a lease?—I had.

100. From whom?—From Mr. Greer when he came down to take the rents.

Dev. 14, 1841.  
Charles Hogan.

101. What did Mr. Greer say?—Asked who did I get my lease prepared, or why I was not doing it.

102. Did he ask you more than once?—He did, I believe, twice; on two occasions before I took it.

103. And eventually you took out the lease?—I did, sir.

104. Is the rent that has been imposed upon you by that lease an excessive rent?—It is, sir.

105. Above the fair value of this holding?—Yes, sir.

106. You have an adjoining farm, I believe?—Yes, sir.

107. How had you tilled and treated this farm previous to the making of the lease, from 1860, when you got it?—1853 I got it.

108. What course of tillage and usage had you pursued for the farm since 1860; as to measure, for instance?—From 1860 to 1867 I farmed it by rotation of crops; dunged it every second year, raising wheat and oats on it and artificial grass.

109. Did you bring manure on the holding?—I did, sir.

110. Where did you bring the manure from?—From the adjoining farm.

111. Did you bring that more than one year?—I did for seven years. I made a draw farm of it; I fed my cattle on it in winter.

112. Mr. Vernon.—You don't reside on it?—No, my lord, the river divides us.

113. Mr. Reeks.—And you say you gave it that treatment for many years?—I did, sir; from the year I took it up to 1870 or 1869.

114. Did you improve the farm, the soil of the holding, by your treatment?—I did, sir.

115. And you say that even with your improvements this rent is far too high?—I do, sir.

116. Is there any interest left in your holding by these increases of rent that have been put upon it—any tenant's interest left now in the holding at the increased rent?—I don't understand your question, sir.

117. Mr. Vernon.—Can you get anything for the land if you sold it at the present rent?—I could not, sir, at the present rent.

118. What do you pay for the land adjoining, on which you live?—I have different farms, my lord.

119. Have you any land near that?—I have; the river divides it.

120. What do you pay for that land?—From 30s. to 31s.

121. Do you hold that by lease?—I do, my lord.

#### Cross-examination.

122. Mr. Carson.—Now, Mr. Hogan, I believe you are a pretty prosperous man, you are pretty well off?—I am glad to be able to tell you, sir, I always strove to pay my debts in the best way I could, I am not in debt.

123. You have got other farms adjoining this?—I have, sir.

124. How much other land have you?—Something over 100 acres.

125. Mr. Vernon.—Is that outside of this?—Outside of this; 130 or 140 acres.

126. Mr. Carson.—Did you purchase out any holding in the Landed Estates Court?—I did, sir.

127. And you have that free of rent?—I have.

128. I am very glad to hear it. Then you don't live at all on this farm, the subject-matter of the present case?—No, sir.

129. Is there a house on the farm, the subject-matter of this case?—There is, sir.

130. Who built that house?—I cannot tell you that, say more than from hearsay.

131. Have you permitted that house to become dilapidated?—It is just in the same way as I got it; it was always dilapidated.

132. And you have done nothing to it?—No.

133. And you are there since 1853?—I am; it was a farmhouse, a barn.

134. What was the rent you paid, under this Chancery lease?—£84.

135. When was it raised to £90?—I think in 1869.

136. Was it the Court of Chancery raised it then?—It was. It was a Mr. Blackburne was agent then.

137. Do you swear positively that what you paid from 1860 to 1867 was £80?—I am not so accurate about 1860, but I swear the first advance was £80.

138. Now, how long did you pay the £80 down till?—I paid it until the year 1867, I think.

139. And do you swear that the present owner raised the rent from £80 to £100?—By his agent; I do.

140. Have you any receipts?—I have, sir.

141. Now, where are they?—I haven't them about me at present.

142. Judge O'HAGAN.—Are they in Dublin?—No, my lord, they are at home; I did not bring them. I have one receipt from Mr. Butler.

143. Mr. Carson.—Could you tell us in what time of the year 1867 the rent was raised to £100?—November, I think, sir.

144. Now, if we produced a rental in May, 1867, in which you are stated to be at £100, would that make you think it was not in November?—Perhaps so; don't I tell you I cannot be accurate as to the time.

145. Maybe you were paying it before 1867?—Captain Creagh can tell you that.

146. Supposing Captain Creagh swears you were paying £100 a year when he came in for the property, what would you say?—I would swear I was not, and I can give you documentary evidence for it.

147. Now, Mr. Hogan, did you ever pay £100 a year to Mr. Butler?—I did.

148. How long did he continue the agent?—I believe about twelve months.

149. From when?—I don't think he collected more than one or two rents on the property.

150. In 1867?—1867 or 1868.

151. Now, do you mean to say that the first communication you got with reference to the rise of rent was by the letter of 28th of May, 1874?—The first letter I got from Mr. Green.

152. Is that so?—I think so.

153. And you never had any conversation before?—I believe Mr. Greer proposed a lease sometime previous to that.

154. How long previous?—He did, to Clayton, and that all the tenants would do so.

155. Had you any conversation with him?—With Mr. Green.

156. Or Mr. Creagh?—I think not, not to my recollection.

157. Was there any previous conversation about a rise of rent?—There was.

158. Now, when you were talked to about a rise of rent was anything said to you that if the rent was raised he would be willing to give you a lease, that if you paid an increase of rent he would give you a lease?—I never required a lease from him.

159. You swear that?—I do, I never asked a lease.

160. And you never asked to get a lease?—No, sir; I did not.

161. And you never asked a lease?—I never asked it directly.

162. Did you ever want it?—The reason I took it was, I was so tormented by increases of rent, every seven years the rent was advancing on me and every other tenant on the property.

163. Did you ever say that you would agree to his term by his giving you a lease?—A proper one.

164. Yes?—I did, sir.

165. You said you would agree to a rise of rent if he gave you a proper lease?—Yes.

166. Well, will you look at it (produced). Is that in your writing?—Exactly so, sir, it is, that is my handwriting, and whether I sent him that copy or not I cannot say.

167. It shows what was running in your mind at the time. This, my lord, is 8th June, 1874, to answer

Dec. 16, 1892.

Charles  
Hogan.

to that letter of the 7th of June, 1874, apparently in which he stated—

"I had a letter from Captain Creagh, in answer to mine of Tuesday, stating your offer and terms as to the lease. What he now says is that if you don't accept the offer at once he will not give the lease but will serve the notice." The answer to that is—

"In reply to yours of the 7th inst. I will comply with Captain Creagh's terms by his giving me a proper lease, otherwise he can act as he thinks fit. I will leave the matter in your hands."

168. Mr. VERNON.—There must be some previous conversation or letter that explains that word "the notice," what does that refer to?

Judge O'HAGAN.—Probably Mr. Greer can explain it.

Mr. CORSON.—Mr. Greer is not the agent now.

Witness.—There is a change of agencies as often as there is an advance of rent.

169. Mr. CORSON.—Will you kindly answer my last letter. Capt. Creagh wants an answer, yes or no? In answering that did you say a word about not wishing to take a lease?—I cannot say.

170. Is this the answer you gave?—

"1st June 1874.—In reply to your letter, I would have answered it by return, but being a matter that required consideration, I hope you will excuse me for not doing so. I will call on you and talk the matter over by your convenience a day at your convenience to see me."

From beginning to end did you ever protest against taking a lease?—Always.

171. Do you swear that?—I do.

172. That you protested against taking a lease?—Yes, sir.

173. Although you would agree to his terms if he gave you a lease?—A proper lease.

174. And this is not a proper lease?—No.

175. Judge O'HAGAN.—I understand that you would have no objection to the lease if it was a proper lease?—Yes, as I should take one at all, as being obliged to take it.

176. Mr. CORSON.—Now, listen to this in Mr. Green's letter:—

"He also desires me to say that, if you do not accept this offer, he will not, if refused, make a lease at all to you."

Did you think that was a queer thing for a man to write to you that was trying to force a lease on you?—Have you any answer to that?

177. Did you think that a curious thing for a man that was forcing a lease on you to say "If you don't accept my terms I won't give you a lease at all"?—I think there is an answer to that.

178. Judge O'HAGAN.—Did you write an answer to that letter?—I think I did, my lord, as well as my memory goes, but I cannot be very positive, unless it was put into my hand. I think I refused it.

179. Mr. CORSON.—After your interview with Captain Creagh in Dublin, he wrote you this letter, commencing:—

"Hogan.—As you did not take me when I was in the business about the £8 and finish the business, I now write to tell you that £10 must be the figure."

You apparently wrote an answer to that, and you did not say a word about a lease in it, fresh, after your interview in Dublin—

"Captain Creagh.—In reply to yours of the 29th, I beg to state that I am satisfied to pay the £10 advance, though I never expected you would charge from the arrangement you and I agreed upon, as you said you would let me have £8. It was no fault of mine not finishing the business as you stated."

From beginning to end did you ever protest against the lease?—I did, sir.

181. Now, on your oath, sir, was not the whole disagreement between you as to what was to be the increase of rent?—And no lease, and the Grand Jury case.

181. So you swear. Were you not paying the Grand Jury case?—Of course I was, as a matter of fact. And don't you know if he paid a portion of it, it would have been taken off the £10 increase?—What affair was that of mine?

182. It seems to have been very much an affair of yours—I claimed it under the Land Act, under the Act of Parliament.

183. Now, you did not take out the lease from 1874 to 1876?—No, sir.

184. Who prepared the lease?—Mr. Grace, of Cahal.

185. Your present solicitor?—Yes.

186. Did Mr. Creagh make any alteration in it?—Not in this lease, he did in a former draft he sent his tenant, Clayton, my brother-in-law.

187. Judge O'HAGAN.—What did you say about a former draft?—The first form he used was from a Mr. Blackall, of Limerick, binding the tenants to very extraordinary covenants. He objected to that, and he was served with a notice to quit and an ejectment.

188. Mr. CORSON.—Did you ever hear of a tenant on this estate being put out for not taking a lease?—did you?—I did not. I can tell you that they are not now, or very near it.

189. Were you afraid you would be put out if you did not take a lease?—Well, sir, the conversation I had with Captain Creagh in Dublin, on the 28th June, gave me every reason to be afraid so of him.

190. There is a great deal of this land, my learned friend says, is bad land?—There is.

191. And I suppose if it was better land it would be worth more?—Indeed it would.

192. And there would be a higher rent payable for it?—There would.

193. And you say you have no interest whatsoever in this farm?—I have not.

194. Now, about the year 1877 or 1878 did you get a message from the parish priest that if you were dissatisfied with the lease you might surrender it?—Never.

195. That any tenant that was dissatisfied with his lease might surrender it?—No, sir, but I heard Captain Creagh's own expression.

196. What was that?—That while he had the English bayonets at his back he would make his tenants pay his rents.

197. Well, he was quite right. Did you think he ought not to make anyone pay rent?—I do not.

Re-examined.

198. Mr. ROCHE.—I believe all the tenants took leases about the time you got yours?—They did, sir.

199. How many of them are out now?—There are none of them out now, but the executions are out against them, their interests are sold.

200. Mr. CORSON.—What were the executions out for—for not paying rent?—Yes.

201. Mr. VERNON.—Were their interests sold?—Yes.

202. Who was it bought them?—A Mr. Foster.

Mr. CORSON.—An Emergency man.

Judge O'HAGAN.—There is nothing about concluding in the lease, it is only in the letter.

203. Mr. ROCHE.—Did you write a number of letters to Mr. Greer and to Captain Creagh in reply to these?—I think so—I did.

Captain JOHN W. CLEAGH, sworn and examined.

Dec. 16, 1882.  
Captain John  
W. Cleagh.

204. Mr. CORSEAU.—Now, Captain Creagh. Just tell us at what date you attained your majority and came in for this property!—In the year 1866.

205. Are you able to state at that time what rent Hogan was paying!—He was paying £100 a year.

206. Is it a fact he has sworn to have that you raised the rent from £90 to £100!—It is not.

207. Judge O'HAGAN.—Have you any books Captain Cleagh to refer to that would show that!—I have nothing but the rentals of my agent since I got the property from the Court of Chancery, after discharging Mr. Blackthorne, who was the receiver under the court.

208. From what time do these entries in the books begin?

Mr. CORSEAU.—The oldest is in May 1867.

Witness.—That is Mr. Butler of Ballywarron's rental, that is the first one I got from the Court of Chancery.

209. Mr. VERNON.—There is no account of the letting from 1850 until the date of the majority of the owner. Was Mr. Butler appointed your agent immediately on your coming of age!—No, he was not.

210. Judge O'HAGAN.—Who was your agent when you came of age!—Mr. Blackthorne continued as far as my memory serves me.

211. He continued as a receiver does until he had wound up his accounts in the court!—Quite so.

212. Mr. CORSEAU.—Will you tell the court what was the first intimation of any change in the rent or in the nature of the tenancy that you gave!—Well, about 1873 or 1874 I met several tenants, and I wrote to several.

213. Mr. ROCK.—Will you confess yourself to Hogan!—Yes, very proper. I interviewed Hogan and told him I thought he had the land too cheap, that he ought to give me an increase of rent, and I would give him a lease.

214. Mr. VERNON.—Can you fix the date of that conversation!—The exact date, no sir, I cannot.

215. Mr. CORSEAU.—But it was in 1873 or 1874!—Yes.

216. What did he say to that!—Oh, well, he found fault with having any rise put on him at all. He did not wish to pay any increased rent.

217. Then what was the next step that you took!—The next step I took was I met him afterwards in the country.

218. How soon afterwards!—Four or five months afterwards, I was down there shooting and I met him, and I said he should pay me the increased rent, I could not afford to let him have the land at the rent at which he was having it, I thought it was too cheap. And then he asked me to give him a lease, he asked me on several occasions to give him a lease at the increased rent, and I asked for more than the £10 I put on it finally.

219. How much of an increase did you ask for!—I should say £20.

220. And you say he asked you on several occasions to give him a lease if he paid the increase!—He asked me on three or four occasions, and I said I would give him one without any stringent covenants in it.

221. Now, what was the next step in the transaction that you remember!—The next step in the transaction that I remember was a letter I received from Mr. Greer to the effect:

222. Have you got the letter, have you made search for these letters!—I have made search, and there is a letter on the table there in which Mr. Greer says "I send the consent."

Mr. ROCK objected to say communications between Mr. Greer and Captain Creagh being made evidence in the absence of the former.

223. Judge O'HAGAN.—Where is Mr. Greer now!—I believe he lives at Bemis, Newport, county Tipperary. I am not in a position to say does he live there or not.

224. Mr. CORSEAU.—When did he cease to be your agent!—Since the commencement of this agitation in Ireland under the title of the Irish National Land League.

225. Now, do you remember this interview in Dublin!—I do.

226. When he came up to see you!—Yes.

227. Just tell us what occurred at that interview!—He came out to Cross Avenue, near Blackrock where I was residing at the time, and Hogan and I were on very friendly terms, and everything went on very peacefully and quietly between us, and we parted very good friends.

228. Just tell us what was said!—The exact words—well I could not.

229. The purport of it!—The purport of it was that we had a conversation about a lease, and we both came to the conclusion—Hogan agreed to take a lease from me for an increase of £10 a year, and we parted on very good terms.

230. Now, was anything said about the Grand Jury case!—I don't remember anything.

231. Judge O'HAGAN.—Are you quite sure of that that you ultimately agreed in Dublin, he was to take a lease at an increase of £10 a year!—Yes, I am quite sure of it.

232. Mr. CORSEAU.—Was there any talk about £8 a year!—I remember no conversation about £8 a year because I wanted a great deal more than £10 a year additional for the holding in the outset, I wanted £18 or £20 additional rent, and he would not give it.

233. Did you ever use any threat towards him in any conversation you had with him!—I never told him I would evict him.

#### Cross-examination.

234. Mr. ROCK.—How many tenants have you on that place Captain Creagh!—Twenty-two, I think.

235. All of them took leases about this time!—They did not.

236. How many of them!—A good many. With the exception of a part called Ballywarron they all agreed to take out leases with the exception of two; but they did not all take those leases out.

237. Who were the two!—Alfred was one who agreed, and then he would not take out the lease. He is dead.

238. Did the other man also agree to take a lease and refuse it afterwards!—They agreed to take them out.

239. And refused to take it afterwards!—No, they did not.

240. Have you not told us that only two out of the whole of the tenants refused!—I say two out of the lot refused and the rest accepted.

241. And all the others hold under leases now!—The greater portion of them hold under leases.

242. Then it comes very much to this that with the exception of two all the other tenants took a lease!—That were offered leases.

243. And those two were offered and agreed to take them, and afterwards refused!—Two of them did. Yes.

244. Your agent was Mr. Greer at that time!—He was.

245. And you were also in personal communication, in direct communication with the tenants yourself!—I was.

246. Writing letters to them!—Very few letters I wrote to them.

247. Now there was a tenant named Hourigan on your property!—Yes, Michael Hourigan.

248. He was one of the tenants with whom you were in treaty for a lease!—He was.

249. He refused to take a lease at first!—He refused to take it.

250. Did he!—You say he did.

Dec. 18, 1881.  
Captain John  
W. Creagh.

251. Well, I ask you—I—My lord, is not that irrelevant to the subject?—We are on Hogan's case first.

252. If you please Captain Creagh you may be a very good soldier but you are a very bad lawyer if you raise that point!—There is no harm in my making the remark you know.

253. Not the least I can assure you!—Then it is a harmless thing.

254. But I would ask again to come to the point, this Heurigan was one of your tenants!—He was.

255. And he refused to take a lease!—Well, I don't remember whether he did or not.

256. Do you know your own handwriting!—I do.

257. Well, that (produced) is your letter Captain Creagh!—That is mine.

258. Well you threatened to evict that man if he did not submit!—Does this read like a threat "I have set your farm to another man from the 6th May 1875, upon the terms you refused." I don't see anything about a lease in that.

259. We will not argue as to whether it was a threat or not. You say as I understand that Hogan and you parted very good friends at the interview you had in Dublin!—It was at Blackrock, not in Dublin, the Hermitage, Cross Avenue, Blackrock.

260. Very well, you are very accurate, and you parted excellent friends!—We parted very good friends.

261. You were in good humour I gather from your letter of the following day!—I cannot remember whether I was in a bad humour or good humour.

262. Do you mean to swear to the court that on that day at that interview Hogan was quite willing to take a lease of this holding at the advanced rent of £10!—He was at the time, he may have changed his mind afterwards like another tenant.

263. Is that (produced) your handwriting!—That is my handwriting.

264. Will you be good enough now to read that for the court!—Hogan, as you did not take me when I was in the humour, about the £8, and finish the business, I now write to tell you that £10 must be the figure and 31 years, the lease to be the same as I gave to Ryan. Should you not agree I suppose you will give up the farm as you said without any notice to quit

on the 1st May 1875. If you give me no decided reply I will see about another tenant!

265. We will not argue about that either, whether this is a threat or not. You have been in the army I believe!—I have been in the 9th Battalion Rifle Brigade, formerly Westmeath Militia.

266. And you have been in the habit of giving the word of command!—I have.

267. Is not this like the word of command—"Is tell you £10 must be the figure"—is not that in its nature like the word of command?

268. Mr. Carson.—As well as a barrister can say it!—Oh, yes.

269. Mr. Roche.—Will you swear Hogan was willing to take the lease at the interview!—As far as I remember he was.

270. Is your memory generally very exact!—In some things it is.

271. When you are getting an increase of rent over a district does that quicken your memory; is that such an interesting fact that it quickens your memory!—I don't exactly understand you.

272. Were you not determined, Captain Creagh, to put out those tenants if they did not submit to your lease and pay this increase of rent!—I was not.

273. You say that notwithstanding this letter you have just read, your own letter!—Yes.

274. Do you generally mean what you say!—Well, people say a great number of things they don't mean.

275. Do you generally mean what you write!—Yes you may write a great number of things which may be construed in different ways.

276. Can you suggest to the Court any construction on such a phrase as this—"if you don't come to my terms you must give up your farm on the 1st November"—can you suggest any construction but the one to the Court!—I wanted Hogan, the plaintiff, to close matters.

277. May I ask you when you say to a man when you wanted to close matters that "you must give up your farm on the 1st November, unless you submit to pay £10"—what do you call it, is it a threat!—It may appear a threat, there is no doubt about it, it may.

Judgment reserved.

(BEFORE MR. JUSTICE O'HAGAN AND MR. COMMISSIONER VERNON.)

TUESDAY, DECEMBER 20TH, 1881.

TIMOTHY JEREMIAH LEARY, SIR GEORGE COLTHURST,	- - - - -	<i>Tenant;</i> <i>Landlord.</i>
--	-----------	------------------------------------

Mr. D. O'C. O'Riordan, q.c., appeared for the tenant; Messrs. Wm. O'Brien, q.c., and Seymour Bush, m.i., appeared for the landlord.

TIMOTHY JEREMIAH LEARY sworn and examined.

1. Mr. O'Riordan.—You are the tenant in this case!—I am.
2. Was your father tenant before you!—He was.
3. And was your grandfather before him!—Yes, sir.
4. How long have they been on this farm altogether!—Since 1850.
5. Do you know where there buildings erected on the farm by you and your people!—I do, sir.
6. Do you remember your father having built on this farm!—I do, sir.
7. What did he build on it!—He built a barn, stable, dairy, and piggery.
8. What kind of buildings were they, were they substantial buildings!—They were.
9. Are they there yet!—They are.
10. Are they in good condition!—They are.
11. Now on another point, I believe the holding originally was 83 acres!—Yes, by lump the land was taken.
12. Were 20 acres taken from you of that 83!—There were.
13. Were there buildings erected by you or your father on that part of the premises!—There were, by my father.
14. Mr. Vernon.—Do you mean on the 20 acres!—Yes.
15. Mr. O'Riordan.—What did he build on that part of the premises!—He built houses for those under tenants.

16. In December 1873 your uncle died?—Yes.  
 17. He was supposed to be the last life in the old lease?—Yes  
 18. Is this (produced) the pass book kept between you and the landlord's agent?—Yes, the entries in that are made by the agents.

19. Who were the agents?—Mr. Hussey we had, Mr. Horace Townsend, and we had Mr. Fitzgerald, this gentleman here receives rent too, Robert Townsend.

20. The rent of September, 1873, was paid in April, 1873, according to this book?—Yes, sir.

21. You get this book from them?—I did, sir, all the entries in that are made by them.

22. The rent of March, 1873, according to this was paid in October, 1873?—Yes.

23. And according to this the rent of September, 1873, was paid in April, 1874?—Yes.

24. That was £27 1s. 8d. half-yearly?—Yes.

25. Now were there drains made on the lands by your father?—There were.

26. How much?—In 1862, he drained about 10 acres of the land from 1862 to 1864. And he got £74 government money from the landlord, that would raise the rent to this £27 as stated in the pass book; There was £2 in every half-gale added to the land, he had to pay it back at 6 per cent.

Mr. O'NIELSON.—The original rent was £31 7s. 10d. and the rent he has been paying was £37 14s. 8d., because we added on account of this drainage £2 9s. 9d. half-yearly.

27. Mr. VERNON.—What was the amount borrowed?—I think £74.

28. Mr. O'NIELSON.—So you have been paying all that all that time?—Yes, sir.

29. Mr. VERNON.—Are you still paying that?—No, sir.

32. Who is paying it now. You say it was from 1862 to 1864, then the instalments are not paid up yet?—It commenced from 1862, and I was paying it up to the time I was evicted.

33. Since you were evicted who paid those instalments?—My rent was charged then.

34. I want to know who paid those instalments since the eviction?—I cannot tell.

35. Mr. O'NIELSON.—You have not paid than?—No.

36. You have only paid the rent at present £58 4s. 9d. for 63 acres?—Yes.

37. Now I see that the March rent of 1874 is £29 2s. 6d., that is according to the present lease, and you have been paying that down, beginning in March, 1874, that would be the rent that became due in September according to the lease itself. Now do you remember Mr. Townsend sending for you?—I do, sir.

38. In 1874?—Yes.

39. Before he sent for you in 1874 had he said anything to you about taking out a lease?—No.

40. On account of the message did you go to him?—I did. I was sent for to go to Mr. Forrest's place, he is under agent; he is in the second next townland to where I live, and Mr. Townsend generally stopped there.

41. You came to Forrest's, his sub-agent?—I did, sir.

42. When you came to Mr. Townsend there, what did he say to you? Did he show you that (the lease)?—He did; there were four tenants more to sign leases.

43. Before that had he said anything to you about taking a lease?—No.

44. Judge O'HAGAN.—Can you fix the time?—That he showed me that document?

45. No, the time of this interview, when you went to Mr. Townsend what time of year was it, and what month?—It was the spring of the year.

46. Spring, 1874?—May, 1874, your lordship.

47. Mr. VERNON.—Was that after or before you were evicted?—That was after I was evicted.

48. Mr. O'NIELSON.—What did he say to you when you came to him?—He read this document for me,

and asked me to sign it. I said I would not sign, that Mr. Hussey treated me very badly, he caused me to improve my farm before the expiration of the old lease. I redeemed forty-eight acres myself and my father, of a worn out bog. We drained twenty-five acres, and Mr. Hussey always said to me if I was not an improving tenant, or did not improve according to his wishes, he would have my name marked in the rent roll book as a black sheep, and he would not give the lease to any one that would not improve when the old lease expired. The year before the old lease expired he caused me to drain ten acres of bog, he said he had not a loan at the time, but if I employed the men, and got Mr. Forrest to superintend the work, last before I had far proceeded with it, he would have a loan, or allow it to me in the next rent. I had half the work completed when the lease expired. I completed the work, it was passed by the Inspector of the Board of Works. Mr. Forrest made out the estimate, and I applied for my money, to get interest. He said I should give competent security to Horace Townsend to till the whole in three years, or he would not give me money. I refused. That was in 1874.

49. For that ten acres you have been made no allowance whatever?—No.

50. And you did that at the instigation of Mr. Hussey?—Yes. I applied to him afterwards, and he said I had done more injury than service, and if I did not go to Horace Townsend he would not give me money, and I did not get the money.

51. What did you say about the lease?—I told Mr. Townsend I would not sign this lease.

52. Judge O'HAGAN.—Just state everything that occurred from the beginning, from the time you saw Mr. Townsend?—He produced this lease to me.

53. That was the first thing he did when you came in?—Yes.

54. Mr. VERNON.—That was in Forrest's house?—That was in Mr. Forrest's house.

55. Mr. O'NIELSON.—Was Forrest there?—I think he was there at the time. He read the lease for me, and I told him I was no judge of a lease, and I thought Mr. Hussey would not treat me as he did, taking away twenty acres of land, which Sir George never lost a penny by it, and putting on money for old houses my uncle built. Mr. Townsend told me he would give me three weeks to decide and consult with my family, that I ought to know my position, he could have me summoned before the Petty Sessions Court and have every bit belonging to me removed without the boundary. I took that lease home, and he sent Mr. Forrest afterwards again threatening me if I did not sign the lease he would summon me before the magistrate, and I should have all I had outside the boundary before a fortnight; fearing, before scuttling my little means and being turned out on the world, I signed that lease.

56. Mr. VERNON.—Do you remember when you signed that lease?—I signed it in June, 1874.

57. Mr. O'NIELSON.—Was it signed by the landlord at that time?—No.

58. How long do you know the lands?—I was born on the lands, I know them for the last thirty years perfectly.

59. In what condition were they in when you knew them first?—There is a large boggy which the landlord sells turf off, and the farm has bounds running between that and the Blackwater.

60. In what condition were they when you knew them first?—The lands were wet and coarse adjoining this bog, and there was a part of this bog improved which the landlord sold several rods of turf off.

61. Now, what did you do in the way of reclaiming them, yourself and your father?—We drained twenty-five acres of the land, and we reclaimed forty-eight acres of this barren land, this out-way bog.

62. In what way did you reclaim it, what did you do to it you know?—We drained the greatest part of it and lined it, ditched it, and brought it into a state of reclamation. It was not worth one shilling an acre

Dec. 19, 1881.

Timothy  
Jeremiah  
Lewy

No. 10, test.  
Timothy  
Jeremiah  
Leary.

when we commenced it, now Sir George Colthurst has got £1 from the other tenants, he took away from me the twenty acres.

63. Mr. VERNON.—You say you reclaimed forty-eight acres, was part of that taken from you and included in the twenty that is gone?—Twenty of that was taken away from me.

64. Mr. O'ROURKE.—And you say he has now got £1 an acre for that from other tenants?—Yes, close on it.

65. Before you reclaimed it what was the value of it?—It was not worth £1.6d. an acre, it was growing land in a wild state.

66. I want you to tell me as nearly as you can, in money, what was laid out on the several buildings you mentioned in the several parts of the farm?—About £200.

67. Now, supposing that that money had not been laid out on it in reclaiming, or building, or draining, what would be the present letting value between man and man of what you hold yourself, of the sixty-three acres?—£40 would be about the fair value of the land.

68. As it stands at present?—Yes.

69. But supposing those improvements had not been made upon it, what would be the letting value of it?—I cannot exactly say.

70. However, you say the present letting value between man and man is £40 for the sixty-three acres?—Yes.

#### Cross-examination.

71. Mr. O'BRIEN.—Tell me now, you were ejected from this place; you held on after the old lease?—I was ejected.

72. Your father, who was the lessor and the tenant, died on 13th December, 1872?—My father was not the lessor at all, but my grandfather.

73. He died in December, 1872, at all events?—My uncle died in December, 1872.

74. The last life in the lease, whoever it was. And you held on until March, 1873?—Yes, I was evicted in March, 1873.

75. And, I suppose, you knew sufficient of the law down in that part of the country to be informed that you had a right to hold on to March, 1873?—I did not know anything to that effect.

76. But you did hold on to March, 1873?—It was in the autumn of 1873 I was ejected by the sheriff's men. In the month of October.

77. The lease is dated 18th July, 1873. Then you were put in as a caretaker?—Yes.

78. And you remained as a caretaker until you got new lease?—Yes.

Mr. O'ROURKE.—That is a question of law you are asking him to swear to.

Witness.—I don't know.

79. Mr. O'BRIEN.—I beg your pardon, you said "yes"?—Well I did not understand that question.

80. Now have you got your new lease here?—Yes.

81. Mr. VERNON.—Were you ever formally restored to possession, were you ever given possession back?—No.

82. Mr. O'BRIEN.—You are very simple people down in that part of the country. Take that document (*the lease*) in your hand, I have to ask you a question upon it. On the virtue of your oath was that stamp on that document when you signed it?—The stamp—the stamp was on it.

83. You swear that?—I think to the best of my belief that it was.

84. Is it now to the best of your belief—mind now I give you notice you will be challenged upon this point. Do you say to the best of your belief or positively that stamp was upon that deed when you put your name to it. Come now!—The stamp was on this I think when I put my name to it.

85. You think, is it? You think, is it? Do you know or do you think it, which?—I am strongly of opinion that it was.

86. You are strongly of opinion that it was. Where was it you signed this lease?—It was in my own house I signed it.

87. Who brought it there to be signed?—I got the lease, as I stated before, from Horace Townsend, to consider it for a fortnight or three weeks, and if I did not sign it that he would have me summoned.

88. Have you summonsed, I ask. Were you told you would be summoned?—He told me that my position was that he could summon me before the magistrate if I did not sign the lease.

89. Who told you that?—Horace Townsend.

90. The agent?—Yes.

91. And you kept the lease to see whether you would sign it or would be summoned?—No, I kept the lease to consult with my family.

92. Mr. VERNON.—Did you say that Mr. Horace Townsend could put you out, or would put you out?—He told he would put me out.

93. Did he say he *would* or *could*?—He said he would have me summoned, that that was the law, he could put me out before the bench of magistrates is Millstreet.

94. Mr. O'BRIEN.—And tell me Leary, ignorant of the law down there as you were of course, did you say to him, "Ah, Mr. Townsend, that is all nonsense, I am a tenant from year to year, you cannot summon me," did you say that at the time?—To whom?

95. To Mr. Townsend, did you say that to him?—I did not say any such thing.

96. Tell me, your lease—that document before you—was it signed by Sir George Colthurst when you put your name to it?—It was not.

97. And did you take the lease now, you consulted all your family about it?—Yes.

98. For three weeks you had it with you?—I had it in my possession for sometime after.

99. And you had all a family council about it, had you not? Now when you took it back to Mr. Townsend did you take it back yourself?—I did not take a book at all. The lease remained with me after Mr. Townsend gave it to me to consider, and after sometime he sent Mr. Forrest to me and told me if I did not sign the lease I would be summoned, then I signed it in the presence of Mr. Forrest.

100. Will you show me the lease itself. Take that document again into your hand and look at it, look at the date at the top of that document "7th November," the date on which it professes to be made. In whose handwriting are those words the "7th November"?—I cannot tell you.

101. On your oath are they not in the handwriting of Martin Forrest, the witness to the execution of the deed?—I can say on my oath that I think they are not—I say "Timothy Jeremiah Leary" there.

102. No, let the "7th November" the date—I cannot answer that question, I cannot swear to Martin Forrest's hand correctly.

103. But if you are his wife, you might swear to it very well!—Certainly.

104. You saw him write his name at foot of it, did you?—I did, sir.

105. On your oath, on the same occasion, did he write that date the "7th November"?—He did not.

106. You swear that?—I do.

107. Just keep it for one moment in your hand. Will you look at the little pencil writing at the side of it, at the right hand corner above. Were those pencil writings upon that document when it was originally brought to you?—I cannot say, I think they were; I never put any writing on it.

108. You think that pencil writing was upon that document when it came to you?—I cannot answer that question.

109. On your oath were they upon it when it came back into your possession?—I cannot answer that question.

110. Now, tell me when you signed the lease, did you give it to Martin Forrest?—I did, Martin Forrest took it away with him.

111. Who was present besides Martin Forrest when it was signed?—I cannot say, perhaps my father.

112. Don't you know a man does not forget when a lease was signed, it is not like buying a pair of breeches? Who was present besides Martin Forrest?—I think my father was.

113. Your father is not here?—He is dead.

114. How long had Martin Forrest these documents away with him before he brought them back to you?—He did not bring it back to me again.

115. How did it come back, did it fly to you?—Horace Townsend told me the lease was in the office in Cork, and I should pay for it, in the office, 49, South Mall.

116. Mr. VERNON.—How did he tell you that, by writing?—Oh, verbally, he used to come on the property every fortnight.

117. Mr. O'BRIEN.—And you went for it?—I went for it, I was paying rent, I think, at the time.

118. Paying rent for this holding?—Paying rent for the holding I occupied.

119. And it was upon an occasion when you paid your rent you got the lease back?—I am not sure whether I paid rent the day I got the lease.

120. What did you mean by telling me it was when paying rent you got the lease, if you now say you don't know whether or not you were paying rent that day?—I cannot answer that question.

121. On each cash did you ever pay rent before you got back your lease?—I did.

122. Now, I ask you was it on the same occasion you got back the lease you paid rent?—I may have paid rent the day I got the lease.

123. So may I. Did you pay it?—I won't swear positively. It was in Cork I got the lease, I had to pay £2 for it.

124. Now, let me go a little closer, when was it that lease was signed by you as you say, because I observe you don't appear to be very clear about it; what month was it in?—In June, 1874.

125. Did you say in May, 1874, at all, in the course of your examination, or about May?—It was in May Horace Townsend produced it to me over in Martin Forrest's, and I did not sign it for some months after, sometime after.

126. In May it was produced to you?—I think it was to the best of my opinion.

127. Are you sure it was in May he gave it to you?—I am not sure whether it was in May or April.

128. Are you sure whether it was in April or March he gave it to you?—It was in the spring at all events.

129. Will you swear it was not in March he gave it to you?—I will. I think it was in April or May to the best of my opinion.

130. Did you not swear a moment ago it was in May he gave it to you?—I did not swear positively.

131. Did you swear negatively or doubtfully, did you say it was in May he gave it to you?—About May.

132. And now you say it was in April he came to you, is it not? What time in April?—I cannot tell you.

133. Was the day, the 1st of April, Fool's Day, he came to you or later in the month?—I cannot tell you the exact time.

134. And he left it with you for three weeks?—Some considerable time, it may be longer.

135. But on the occasion when he first brought it he said Mr. Townsend said you would be summoned if you did not sign the lease, and he left it three weeks with you?—He gave me three weeks to consider, or a month.

136. Did you not say three weeks a moment ago?—A month may have elapsed.

137. Will you tell me, it is a matter of extreme difficulty to me, perhaps you can explain it, was the date 7th November written upon that document when he brought it to you?—It was not, it was in the office it was dated after signing the lease when it went back.

After signing the lease in June or July it went back to the office, and then the office put in "November 7th."

138. Well, Patrick, was not that very extraordinary, can you tell me why they put in that date. After getting it in the month of June somebody put in the "7th November." You set "making buttons" of that, as they say in the South, I observe. Can you explain that in any way?—I cannot explain it, the only explanation I can give is that Mr. Hussey, I suppose, wanted to put the lease back as closely as he possibly could, and he did that with all the leases he made at the time so as to shorten my term. If I had to hold under that for thirty-one years, I would lose a year.

139. Tell me were those words in the lease when you signed it, or were they put into it in the office "to have and to hold all the said demised premises under the said leases, &c," that is printed, and here is the written part, "for a term of thirty-one years from the 29th March, 1873?"—I think that written part was not put into the lease until it went back again to the office, it was in the office it was filled after I signed it.

140. Oh, I see. Now, will you explain to this Court, because there are things we cannot understand, even here, will you explain to the Court why, having put in, you were to hold from March, 1873, Mr. Hussey, in order to put the lease back as far as you say, had the date of the making of the lease made 7th November, 1873, for that is the reason you give for the 7th November being put in. Can you now tell me why he put in the 7th November. You had to pay rent at this new rate from 29th March, 1873, and held from that date?

Mr. O'BRIEN.—He was not to pay rent until September, 1873.

Mr. O'BRIEN.—You were to pay rent from 29th March, 1873. Do you now swear that that was not in that until you sent it back?—To the best of my opinion the written part was not in it until it went back to the office again; it was in the office it was filled.

141. And, tell me now, when you got your lease did you read it?—I did.

142. Read it over, I suppose—writing, and all, perhaps. You did not read the writing at all. Did you read the whole of it?—I read all the printed part, for that writing was not on it when it was produced to me first.

143. Did it ever occur to you to say to Mr. Townsend, or Mr. Hussey, or anybody, "this is all a mistake, I am not to hold from the 29th March, 1873." Did you know your time was thirty-one years, to begin to run from that date, did you not?—I never said it to him—I never proposed him any questions at all about the lease.

144. And, I suppose, until the bottom of society became the top, in other words, until the Land Act passed, you never dreamt of this point at all—you never dreamt of questioning this lease at all until the Land Act passed, I need not say that to you.

Mr. O'BRIEN.—That was the way with everybody.

Mr. O'BRIEN.—The way with a good many, at all events; and, I believe, even after the Land Act passed, you were mean enough—because that is the description of it now—to apply for an abatement on foot of the rent in that lease, because, you know, that is great meanness now for a man to apply for an abatement of his rent, or take it at all?—I don't think it was any meanness; I never get any reduction of rent only—

145. Perhaps you applied for it?—I applied for it.

146. You got one abatement?—I got two abatements, I got one in the past half year.

147. And, I suppose, like the tiger once it tastes blood it wants to live upon blood, you wanted to live on abatements?—After getting one I did not get another; this gentleman here refused it to me.

148. And all this time you were holding fast by the lease, were you not, when applying for and receiving those abatements?—The lease was in being.

See 18 1873  
Timothy  
Jereash  
Laury

No. 20, 1882  
Treasurer  
J. J. Leary.

158. And it was only when you did not receive the statement, or when the landlord would not take what is called Griffith's valuation from you, or would not release the tenants in order to enable you to pay rent, it was then you drew the sword upon him, was it not?—No.

159. Do you know Mr. John Moriarty, alias as venerable man, a name well known in the South of Ireland—I do.

Mr. O'Riordan.—He is not better known than Mr. Hussey.

160. Mr. O'Brien.—Did you instruct him to do anything for you?—I did.

161. And perhaps he wrote a letter for you?—He did.

162. Let me read it for you. Copy of letter from Mr. John Moriarty to Messrs. Townsend and Hussey:—

"25th October, 1831.

—DEAR SIR,—We regret you cannot allow this tenant the usual 10 per cent. This man left instructions to apply under the provisions of the Land Act, 21st section, to set aside his lease and apply to fit a fair rent. We believe all Sir George's dealings were fair and honourable."

Do you now, that he is in his grave, deny that?—I do, that his dealings were not fair and honourable towards me in the way Mr. Hussey treated me.

163. Although Mr. John Moriarty wrote that—

—But there is no doubt the influence of the Land Act of 1830 was used in a sense—

See how cautious he is, you know Mr. Moriarty did not like to pledge himself to too strong a statement—

—was used in a sense which now seems injurious to tenants and to Leary. We have no doubt that the Land Act of 1830 will result later on in accomplishing as much for all, so that if landlords and tenants will qualify let the Act develop itself all will be gained. We think, pending these proceedings, and we offer the suggestion with deference and respect, that it might be wise to stay all hostile law against Leary until his application shall be disposed of. The notices will be served on you today, and therefore perhaps you will kindly receive the circumstances made, and accept it on account or otherwise, and in the hope you will be pleased to do so, we beg to enclose you our draft hereon."

Mr. Vincent.—I presume that was for the abated rent.

Mr. O'Brien.—The rent the tenant abated himself.

Mr. Vincent.—He enclosed his own statement.

Mr. O'Brien.—Yes, that is the way we do now, except when we calculate upon keeping the whole, sometimes we do that too. Now, if you got the abatement, on your oath, the third statement you asked, I suppose you would have stopped where you were?—It was only the second.

164. Well suppose you got the second abatement would you have stopped where you were?—I would not.

165. Oh, you mean to say you would have put the abatement in your pocket upon the basis of the rent you were paying under that lease, and would still have gone on to set aside the lease itself, on your oath would you have done that?—Which, sir.

166. Would you have taken the statement from Mr. Townsend and still gone into the Land Court against him?—Certainly I would, if this gentleman gave me an abatement I would receive it.

167. You would receive the statement, I know you would?—I asked him for an abatement and he said he would not give it to me.

168. And if he had given you the statement you would have still gone into court?—Certainly, because the rent was exorbitant and unfair, and I come here to get myself protected by this honorable court.

169. Where did you learn that phrase, it is usually used in affidavits, was it in a civil bill court you learned it. Tell me what family have you got?—Myself and my wife.

170. You have no family?—No.

171. And I suppose you have a good sum in the bank?—I owe more than I have in the bank if all my debts were paid.

172. But you have money in the bank for all that, take care now what you are about!—I can give you a good statement to that effect.

173. You have money in bank; we don't mind the debts, you will pay Griffith's valuation or get an abatement from the creditors!—But I industry besides this farm.

174. What do you do besides?—I deal in cattle. If I had to thrive and live upon that farm I would have a very poor living.

175. Tell me, would you pay as much as £600 at a fair for cattle?—I would not, because I could not afford it.

176. Would you pay £350 for your purchases on one day?—I never purchased that amount on one day.

177. What was the money you purchased in cattle?—£30 or £40 worth.

178. Do you swear that?—I do.

179. What is your bank?—Millstreet is the bank, any money I have, I have no more than £30, I put it into it for protection, into the National Bank.

180. Perhaps you paid the landlord's rent into it for protection, where is the rent you got to pay the landlord, you have not paid him. How much do you owe him?—I owe him only a half-year's rent.

181. When was that due?—The past year.

182. On your oath do you not owe the whole year's rent?—Mr. Moriarty sent in that rent.

183. The ordinary rule was that there was a hanging gall. Where was this lease kept ever since you got it?—Kept in a box.

184. Have you got the old lease?—No, I never saw it in my life.

Re-examined.

185. Mr. O'Riordan.—This Martin Forrest, he is the bailiff on the estate?—He is.

186. Is he in court?—I don't know.

187. Is he alive?—He is.

188. And he is yet the bailiff on the estate?—Yes.

189. You were asked a question awhile ago by Mr. Vernon, I think you did not understand it, you and you were put out of possession in the autumn of 1834 or 1835?—1835.

190. Who put you out of possession?—The Sheriff's man was there and Horace Townsend.

191. Is this Mr. Townsend, who is in court?—No, Horace Townsend, that is down in Smith Barry's estate at present.

192. Was he the agent at that time?—He was under Mr. Hussey.

193. Was he the man that sent for you and said he could put you out in three weeks?—That is the gentleman.

194. He was there when possession was taken?—Yes.

195. When they put you out did they there and then put you back again?—They did.

196. So, except that, you were never out of possession?—No, I never was.

197. Judge O'Hanrahan.—You were put back again you say but there were twenty acres taken from you?—There were, your lordship.

198. When were those twenty acres taken from you first?—In 1834. We were evicted in autumn 1833, and he did not arrange them until the spring of 1834. These tenants he left them in as caretakers too.

199. Was it after or before the execution of the lease that the other lands were taken away from you?—The lands were taken away from me before I signed this lease.

200. The lands were taken away before you signed the lease?—Yes.

201. I observe the lands are valued at the gross Poor Law valuation of £37, I suppose there was a new valuation made?—There was, the very year this lease was made Sir George sent out a valuator.

202. What was the valuation of the entire holding?

before it was divided, Griffith's valuation!—I cannot say, sir.

214. Do you remember it at all?—I do not. I cannot say what the valuation of it was.

215. And when was this new valuation made, do you remember?—About 1873 or 1874, at the time that lease change took place.

216. Mr. VERNON.—Do you remember the revising valuer coming on the land?—I do, sir.

217. Where did he come from?—He came from the Revenue Office.

218. When was that?—It was in 1873 or 1874 he came on my lands and Mr. Forrest with him.

219. Judge O'HANAN.—You don't remember which?—I don't remember which.

220. You read over this lease, it was with you for three weeks?—I did, sir.

221. Did you read this?—

\*And lastly the said lessee hereby certifies with the said lease that the said lessee shall not make any claim for compensation under any provisions of the "Landed and Tenant (Ireland) Act, 1870," it being hereby admitted that the holdings of the said lessee in Ireland are valued, under the statutes relating to the valuation of movable property in Ireland, at an annual value of not less than £50.

Had you any other land at all except this land you now have and the twenty acres taken away from you?—I had not my lord, no other land.

222. Mr. VERNON.—Do you know what the twenty acres are valued at now for county cess?—I do not.

223. Mr. O'BRIEN.—Who got this twenty acres that were taken away from you?—The subtenants that held under me.

224. Were they added to the holding of a man named Moynihan?—No.

225. Who got them?—Johanna Donegan got ten acres, and Daniel Riordan, two tenants yet on the property of Sir George Colthurst.

226. They were subtenants?—Yes, two subtenants of mine.

227. As I understand the twenty acres were taken from you and were left with the occupying tenants, Riordan and Donegan?—They were not, my cousin received four and a half acres.

228. What is his name?—Timothy Leary.

229. A man named Moynihan is trustee for your cousin?—Yes.

#### ROBERT TOWNSEND sworn and examined.

Robert Townsend

230. Mr. O'BRIEN.—Mr. Townsend, you are one of the agents for the present owner of the estate, young Sir George Colthurst?—Yes.

231. This lease of 1873 was made by his deceased father, Sir George Colthurst?—Yes.

232. Now, before that lease was made this man's uncle or grandfather held under a lease, this document in court?

233. Mr. O'BRIEN.—How long are you agent?—Since 1867.

234. Do you mean of that part of the property?—Yes, the whole of Sir George Colthurst's estate.

235. I merely want to know, were you the agent over that property?—Oh, not exclusively. I was not agent, I was one of the firm who were agents. Mr. Horace Townsend was the member who managed it.

236. Are you the Mr. Townsend who sat for him to sign the lease?—No, Mr. Horace Townsend, he could not be here to-day, this is the day of the opening of the Commission Court in Tipperary, and he has been there of Mr. Smith-Barry's, and Mr. Hessey also has been in Killarney.

237. Mr. O'BRIEN.—This (produced) is the lease under which that man's family held these lands?—Yes.

238. Judge O'HANAN.—Give me the date?—9th April, 1873.

239. Mr. O'BRIEN.—From Sir Nicholas Conway Colthurst the grandfather of the present landlord to Timothy and Jeremiah Leary who, I believe were brothers.

240. He got four and a half acres, and the rest was left with Daniel Riordan and Johanna Donegan, the occupying tenants?—Yes.

241. Mr. O'BRIEN.—And you were co-sentient out of the twenty acre?—Yes.

242. Judge O'HANAN.—Can you tell me whether there was a separate valuation for the twenty acres before the division?—There was no valuation before I lost them.

243. Was it one valuation for the whole eighty acres, or were there two valuations?—Was there a valuation for the place these tenants were in, or one valuation for the whole?—There was a valuation for the place those tenants were in and one for my land.

244. Listen to my question. I am asking you to cast back your mind before the land was taken from you at all, say in 1870 or 1871, was there at that time one valuation for the whole of the land you held?—There was.

245. Mr. VERNON.—Were you valued as the immediate lessor or the occupying tenant?—I was valued as the occupying tenant.

246. Of the twenty acres, are you sure about that?—It was valued for the eighty-three acres before the old lease expired, and latterly I am valued back again for the sixty-three acres.

247. Were you valued for the whole eighty-three acres, and the subtenants' houses in one lot?—I was before they went away from me, before the lease expired.

248. Mr. O'BRIEN.—What did the subtenants pay you now as rent?—One of them paid me £8, and the other £5 10s.

249. And that now you say has been let for £20?—I think it is let. Exclusive of that there is 4*l*s. given to my cousin in the making of boundaries.

250. Is it for you or himself your cousin got that?—For himself.

251. Mr. VERNON.—Are the subtenants paying now to Sir George Colthurst's son more than they were paying to you?—He increased their head.

252. Are they paying to the present landlord more rent than they paid you?—They are not, he kept the same rent on them, but Johanna Donegan's farm was increased.

253. For what term?—For the life of Timothy Leary, or twenty years concurrent from March 26th, 1873.

254. Mr. O'BRIEN.—At the rent of £100, the penal rent was £200. That life died on December 12th, 1872.

255. Mr. VERNON.—Do you give the area in that lease?—It is not mentioned in lease, it gives the boundaries of the land.

256. Mr. O'BRIEN.—And the life having expired in 1872, the tenant being entitled to hold on until the end of the current year of the tenancy, Leary was entitled to remain until March, 1873?—Yes.

257. Now, Mr. Townsend do you remember when this new lease was made to him?—I witnessed Sir George Colthurst's signature to it.

258. Do you know had the tenant signed it before you witnessed Sir George Colthurst's signature?—Oh, Yes.

259. Look at the lease, your name appears to it there?—Yes, as witness to Sir George Colthurst.

260. It was then signed by Leary?—Yes.

261. Judge O'HANAN.—When Sir George signed Leary's signature was on it?—Yes.

262. What date do you fix for Sir George?—I cannot say, it must have been signed soon after because it was sent up to be stamped on 24th November, 1873. I cannot tell, I have so much to do, and it is so long ago.

263. Mr. O'BRIEN.—Was it stamped at the time Sir

Dec. 20, 1882.  
Timothy  
Jeremiah  
Leary.

Dec. 29, 1881.

Robert  
Townsend

George Colthurst put his name to it!—Most certainly not.

242. And so it was not stamped when Leary put his name to it!—No.

243. Do you know whose handwriting the date in the beginning of the lease is, the 7th November!—I do.

244. Whose handwriting is it!—Martin Forrest!

245. Can you tell me whether or not that date was upon it, Mr. Townsend, when the lease was brought to you for Sir George Colthurst's execution!—I cannot swear that, but I should not have let Sir George Colthurst sign the lease unless there was some date in it.

246. Mr. Thomas Francis O'Connell was then acting as the Office Solicitor in Dublin!—Yes, he always has acted for me.

247. Is it the ordinary course to have leases prepared on documents before they are stamped, in the office!—Never.

248. Are they stamped or not when the leases are prepared!—Unstamped. They are sent up to Mr. O'Connell, and he gets them stamped in Dublin. As a matter of fact there was some impression thrown upon us, Leary says this was signed after it was sent to the office, that we put something into the body of it, I would wish to explain.

Mr. O'Riordan.—Oh, no, you need not.

249. Mr. O'Brien.—Was it drawn up in the ordinary manner before it was sent to him at all!—It was.

250. And now when it came back, he got it sometime afterwards. Can you tell me when he paid his first rent!—On the 13th April. He paid the March rent on October 10th 1873.

251. He paid it in April 1874!—Yes.

252. Mr. VERNON.—Are you quite sure of that!—Yes, I think so.

253. Mr. O'Rorke.—My poor client was warned a short time ago, and I now warn you.

(Witness.) Here is April 13th, cash H. H. Townsend, poor rates so much, and cash £25 6s. 3d.

254. Mr. O'Rorke.—Is that the rent reserved in that lease!—No, it is not. I see he did not pay the rent reserved for the first time. There is some confusion about it. I don't know how it occurred I am sure.

255. Mr. O'Brien.—At that time the lease was made!—Oh, certainly, it was signed on November 7th.

256. Do you know yourself, of your own knowledge, what was done upon the occasion of the possession being taken under the Act!—No, I do not.

257. Did you see this man before this new lease was made!—Oh dear, yes, I often saw him.

258. Did you often see him in the interval, between the date when the old lease expired and the new lease was executed by him!—I cannot say.

259. On what occasion did you see him, in the interval between the expiration of the old lease and the making of the new one, or after the making of the new until he paid rent!—I cannot tell you, because I did not go out to that part of the country. Mr. Horace Townsend went out there. I was confined to the office.

260. Were you the man to whom the tenant applied for an abatement!—Certainly, a short time ago.

261. When did he come to you last!—Just immediately before that letter of Mr. Moriarty.

262. Had you made him any abatement up to that time!—He got an abatement off the September rent of last year. All those tenants get 10 per cent., and he wanted 10 per cent. off this rent, and I would not give it to him.

263. You know the condition of this property of Sir George Colthurst very well!—I do.

264. You know these buildings are upon this property!—I do not.

265. Do you know of the drainage having been done by Sir George Colthurst!—Yes, there was money borrowed from the Board of Works and spent on that estate.

266. Do you know it yourself!—Yes, because I kept the books.

267. And it was paid by Sir George Colthurst!—Yes.

Cross-examined.

268. Mr. O'Riordan.—You were never on the lands!—I have been.

269. On this man's farm!—Yes, just passing through them, not looking carefully.

270. You were a casual observer there!—Yes.

271. Did you ever go through the lands!—I did not.

272. Did you ever see the drains there!—I did not.

273. Did you ever see the houses there!—I just saw them at a distance. I was at this old man's funeral and I just saw them there.

274. You were not there when the possession was given!—No.

275. And it was not you that threatened him about the house!—No.

276. In fact you were brought here because you knew nothing about it!—I was not brought here at all, I came here myself.

277. And 10 per cent. was allowed him!—Yes.

278. And he was not satisfied with that!—It was allowed him off the date of September last.

279. And then you got this letter from his attorney, in which he histered you up as much as he could, and asked you to hold your hand, and offered you the reduced rent, is not that the whole of that letter!—Yes. I was quite willing to take the money if he had paid Mr. Barry's costs, he was in the hands of Mr. Barry, the solicitor, because he refused to pay me rent until he got 10 per cent.

280. You insisted upon his paying costs!—Yes.

281. Is it usual with you when a lease is signed by the landlord not to put in any date for his signature, I want to know is that the custom in this office of yours!—To put in a second date.

282. I don't care, I mean the date of the execution by the landlord and the execution by the tenant!—Certainly, put in a date.

283. I mean the date of the execution by the tenant!—Certainly, the date it is signed.

284. Why did you not do it in this case!—The date was in before.

285. Now you know yourself that you acknowledged awhile ago, although you heard him cross-examined about it, that this man had signed the lease before it was signed by the landlord, and it was then signed by the landlord subsequently, why was it you did not put in this the date the landlord signed it!—I did not think it necessary to add it.

286. Is it usual in your office never to put in the date of the execution by the landlord!—Not if the date is in before. I never heard of such a thing before.

287. Judge O'HANAN.—Would you put in a date in the beginning if the attestation clause does not contain a date!—Yes, my lad.

288. Mr. O'Riordan.—Will you take upon yourself to swear over to the month that Sir George Colthurst executed this lease!—I will not.

289. Will you undertake to swear to the year!—I will not.

290. Now, sir, you heard that man swear that he did not execute this lease until sometime in 1874, and you admit it was not even signed by Sir George Colthurst any time in 1873!—I cannot swear it. I have such a lot of things to do, I cannot possibly bear them in mind. I have six thousand tenants.

291. Mr. VERNON.—You cannot swear when it was executed by Sir George Colthurst but you say it was signed by Sir George Colthurst!—I witnessed it.

292. And when you witnessed it, it was not stamped!—No, as a matter of fact they never are stamped.

293. Do you know in whose handwriting the date is!—Yes, I swear positively, Martin Forrest.

294. Judge O'HANAN.—If it was not stamped when

Sir George Colthurst executed it—are you certain of it?—I am.

305. Mr. O'Riordan.—Forrest is still in your employment!—He is, and he came up the other day and had to go back when the case did not come on.

306. Is that why he is not here?—I don't think it necessary, I can bring him up to night by the mail train.

307. Judge O'HAGAN.—When was the first rent, do you remember, you got from the tenants of the remaining portion, the twenty acres you took from Lesley and gave to the other tenants?—They have all leases about the same time, 13th November. If you will just allow me to explain I will tell you. This lease—the old lease—was made to the two Lesleys, and the same tenancy was kept on by the two. There was always a great trouble with them, one was a good pay, and the other bad. This was always a good pay, but the other was an idle fellow, and when the lease fell out Mr. Horace Townsend divided the whole thing, and made leases to his under-tenants and his co-partners. Everyone that had a holding under that old lease of £100 got a separate lease, and has a lease now.

308. I understand that now, it is very clear. Lesley's take was reduced from the large take he had with the under-tenants to this take he now has!—Yes.

309. You know the clause in the lease, a printed form, contracting not to seek any benefit under the

Land Act of 1870, and containing an admission that the aggregate of his holding was valued at not less than £60 a year, you heard that read?—Yes.

310. You know that under the Act, supposing that to be correct, he would be discharged—that a man valued at £60 can contract himself out of the Act, but the effect of taking away the other twenty acres was to reduce what was left to him below the valuation, namely, £37. Now, I think it is a thing requiring some explanation on your part, how you inserted that and had it executed by the tenant, when it would really and substantially bind hereafter to stop the tenant from raising any question about the valuation, because at the end of thirty years everyone would have forgotten all about the transaction. That seems to me the most serious thing against the lease, namely, that it contains a statement tending to deprive the tenant of his rights under the lease, that statement being a statement contrary to the fact!—I had nothing to say to the drawing of the lease. It was a mistake in not crossing it out, it was intended to be done and was not done.

311. It was a printed form that was used, therefore, it was a form that would require in every case great care to see that it would not be applied to a tenant where it was inapplicable!—That is the only way I can explain it. It was an omission not to take it out. It should have been taken out.

#### THOMAS FRANCIS O'CONNELL SWORN AND EXAMINED.

Thomas  
Francis  
O'Connell.

312. Mr. S. Burke.—Mr. O'Connell, you are a solicitor living in Dublin!—Yes.

313. You act for Sir George Colthurst!—Yes.

314. And have been so acting for some years?—For some years.

315. Were you acting as solicitor for Sir George Colthurst in 1873?—I was.

316. And did you as solicitor for Sir George Colthurst receive leases or other documents from the county to get stamped for him in Dublin!—I did. That document your lordship has seen was received by me in the month of November, 1873.

317. Did you get two documents or one?—Two documents, the lease and the counterpart.

318. Are those (produced) the two documents you received?—Yes, these are the two documents.

319. Now, when was it you received them?—I cannot say the precise day; I know I got both these documents stamped.

320. They were unstamped when you received them!—They were unstamped, and I got them stamped 24th November, 1873.

311. Mr. O'Brien.—There is some pencil memorandum in the margin, will you explain that?—That is the amount of the stamp duty by the Stamp Office solicitor, and that would not be there if the documents were executed at the time, that only applies to executed documents. You take them to be stamped as a matter of course on your own responsibility without any assessment if they are unexecuted.

312. What is the date of that?—24th November, 1873. I am enabled to state that that assessment would not appear if the document had not been executed either in whole or in part at that time.

313. Those are the pencil marks put on it in the Stamp Office!—Yes.

314. When you received those unstamped documents were they signed?—I cannot state from memory who signed them, they must have been signed by one or both parties. They were stamped on the same day. The assessment of stamp duty is 7s. 6d., 24th November, 1873, and the other 5s., 24th November, 1873.

315. Mr. O'Riordan.—If these documents were stamped in blank as to signatures but perfect otherwise, with the rent stated, would not the duty be on it?—It would be upon it, but there would be no assessment of the stamp duty by the solicitor of

the Stamp Office. You only take it to the Stamp Office solicitor in the case of executed documents or partly executed documents.

316. Judge O'HAGAN.—You can get any unexecuted document stamped, but if you go to the Stamp Office solicitor with an executed document and say you must stamp it, he will not stamp it unless he assesses it!—Yes, and the term must also have been in, or the Stamp Office solicitor would not assess it. Everything must be filed in.

317. Mr. Burke.—After that you returned those leases to the county?—I returned them to Messrs. Hussey and Townsend.

#### Cross-examined.

318. Mr. O'Riordan.—I suppose you keep a book containing entries of what you do with regard to documents you get up from the country?—I do.

319. Have you got the book containing any entry connected with these documents?—Not here. I have a book in the office. I did not think this question would arise.

320. You thought this question would not arise?—I was not told this question would arise.

321. Speaking from your own recollection, will you say that document was signed by the parties when you got it?—It must have been signed by one or other of the parties.

322. I am only asking you on your recollection?—I have no special recollection of it.

323. You have no recollection it was signed by the parties?—I have no doubt of it, but I have no special recollection.

324. Did you take the two together to the Stamp Office?—The two together.

325. If this was signed by both parties, did you not present one as the original document and the other as a counterpart?—Yes.

326. If that be so, why is not the counterpart due on it?—Because that is a subsequent portion—you get it stamped afterwards.

327. One is stamped 7s. 6d. and the other 5s., and you never get the counterpart due on it?—You must get the documents stamped first, and having stamped them, you can get the counterpart due.

328. You do both on the same day?—You may or may not.

Dec. 29, 1881.  
Thomas  
Frasier  
O'Connell.

339. Why did you not get the counterpart done to it if it was signed by the parties—I have no hesitation in saying it must have been signed by one party or the other, and was signed by one party.

339. But you won't say it was signed by both parties—I cannot.

331. Mr. VERNON.—Who drew that lease?—It was drawn in Mr. Hussey's office; it was an estate lease, and sent up to me to be stamped.

332. Judge O'HAGAN.—Do you mean the draft was drawn there?—It is a printed form of estate lease, and it was filled up in Cork.

333. It was prepared for Sir George Colthurst's estate?—Yes.

334. Mr. O'Brien.—You know yourself these are

never stamped until executed, they are sent up constantly—I constantly. You will find my name on the back as having got the stamp.

335. Judge O'HAGAN.—Did you get any costs in connexion with that lease, except the costs of getting it stamped?—No, my lord, nothing more than £1. 10s. for getting it stamped.

336. Were you paid no costs as landlord's solicitor for the preparation of the lease?—No, my lord, except in that way for getting the document stamped.

337. Mr. O'Brien.—Not as solicitor for preparing them, and you had nothing to say to the preparation of them?—No.

Judge O'HAGAN.—As I understood the tenant is paid I think £2 costs.

Leary.

338. Mr. O'Brien.—You paid that to Mr. Hussey?—I did.

Judge O'HAGAN.—This money paid to a gentleman who is not a solicitor at all!

LÉARY recalled.

Mr. O'Brien.—To a gentleman who has a conveyancing business and keeps clerks.

Mr. O'Brien.—A license for a stereotyped lease prepared, I have no doubt, by English counsel.

B. Townsend.

339. Judge O'HAGAN.—Mr. Vernon and I wish to know when did you first receive the rent from the new tenants, Meenihan, Blordan and another?—They paid a year's rent together on the 13th October, 1874.

340. Mr. VERNON.—Due and owing when?—29th September, 1874.

B. TOWNSEND recalled.

341. Who did they pay rent to from March, 1873, to September, 1873, that rent as I understand you, covers the period from September, 1873, to September, 1874, who received the half-year's rent from March, 1873, to September, 1873, in respect of the twenty acres?—I cannot tell you.

T. J. Leary.

342. Judge O'HAGAN.—Did you receive the rent from the tenants of the twenty acres down to September, 1873?—I did your lordship.

T. J. LEARY recalled.

343. At the time of taking possession was the sheriff there or any one representing him?—His man was there, his officer.

### (BEFORE THE FULL COURT.)

THURSDAY, DECEMBER 22ND, 1881.

JOHN MULCAHY,	- - - - -	Tenant;
LADY MARGARET CHARTERIS,	- - - - -	Landlord.

Mr. Sergeant Hemphill and Mr. Morgan Kavanagh appeared for the tenant; Mr. J. G. Gibson, Q.C., and Mr. Greer appeared for the landlord.

JAMES STAPLETON sworn and examined.

1. Mr. Kavanagh.—How old are you?—Boger, I am very near eighty.

2. Where do you live?—Ardifinan.

3. How far is Ardifinan from Neddians?—When I was in Neddians I was a quarter of a mile from Ardifinan.

4. How long do you know this farm of Neddians?—Boger, I was very young when I knew this place.

5. How many years ago?—I cannot say how many years ago because I am no scholar.

6. What kind of a place was it when you knew it first?—Boger, it was a very bleak place, there was no trees there but white-thorn trees and hedges.

7. Were there any trees there when you knew it first?—There were white-thorn trees.

8. But there were no big trees there?—There was no such thing.

9. Was there any house on the land?—There was a little timber house there.

10. And were there any out-buildings?—Boger, there was no out-buildings, I remember when the house was built.

11. You remember when the present house was being built?—I do very well, but I cannot say what time it was because I did not mind it.

12. Did you remember them building it?—I do.

Mr. Gibson, Q.C., objected to this evidence on the ground that Lady Charteris held under a Leasehold Estates Conveyance and also because, the lease having expired before the Land Act of 1870, the improvements vested in the landlord.

13. Mr. Kavanagh.—Do you remember the out-buildings being built?—I did, sir.

14. That is a long time ago?—It is.

15. Were there many stones about the place when you saw it first?—Many stones in the ground?

16. Yes!—Boger there was, it was full of stones.

after the camp they used to be rooting and levelling them

17. Do you remember the remains of the camp there?—I do, that is what I am telling you.

18. Do you remember seeing those stones ploughed up?—I do, I saw a plough coming and another plough after it digging up the stones and men taking them away, and in a field near the river it was full of big stones, and I saw them all in little heaps, and men taking them off and levelling the place and putting day in the holes.

Cross-examined.

19. Mr. Gibson.—Now my old friend this land was not worth anything at all I suppose in 1800?—Oh, before, I don't know, I had no schooling, I did not mind any year at all.

20. Might I ask what has been your business all your life?—I don't know what year, but I know the year I used to have recourse down there.

21. Have you got a farm of your own?—I am a little deaf, sir.

22. I know but you were not quite so deaf to Mr. Kavanagh. Have you got a farm of your own?—It is often I saw the farm.

23. Do you swear that there was only a timber house there when you recollect the place first?—I saw the old timber house there and I don't know how long it was there.

24. Where was Mulcahy living when you saw the place first?—Oh, I don't know when they came there first.

25. But you know when Mr. Frank Mulcahy was living there very well. You will have to answer sometimes or other, so you may as well answer now. Where was Frank Mulcahy living when you knew him first, was he living in the timber house?—He was not living in the timber house, I cannot say where he lived.

26. Were there pigs living in the timber house?—I don't know.

27. Upon your oath where was Mulcahy living at the time?—I did not see where he was living.

28. Where was he living, sir?—There was some kind of a house there, I am sure.

29. Were there officers there?—You said to Mr. Kavanagh there were none. Were there officers there?—What was there, sir.

Mr. Gibson.—Ah, go out of that.

*Dec. 13, 1880.*  
*James  
Stephens.*

PATRICK MULCAHY, sworn and examined.

*Patrick  
Mulcahy.*

30. Sergeant Heslop.—Where do you live, Mulcahy?—I live in Ardfern.

31. That is close to Neddins. Do you know this place of Mr. Mulcahy's?—I do, well.

32. How old are you?—I was born on the 14th of March, 1800, I shall be eighty-two years next summer.

33. Do you know Mr. Mulcahy that lives now at Neddins?—I do, sir.

34. Did you know his father?—I did, right well, and lived with his father.

35. Did you know his grandfather?—I cannot say, I did.

36. What was the father's name?—The present Mr. Mulcahy's father's name was Frank.

37. Do you recollect when Frank was married?—I do, sir.

38. I believe that was the year of the battle of Waterloo?—I believe so, sir.

39. Do you know the dwelling-house?—I do, sir.

40. Do you recollect when that dwelling-house was built?—I saw that place, and there was not a stone laid on the foundations of the dwelling-house. It was the bleakest part of the country I could see the first time I saw it, and I crossed the way.

41. Was it built by Frank Mulcahy, the present man's father?—It was.

42. How old were you about when you saw the man building it, were you a boy or grown up?—I was a little boy, growing up, sir.

43. Do you know the cottages that are there?—I do, sir; before the dwelling-house was erected, the first time, I saw a bearded house there, and I saw two little huts like in the place.

44. And was that all the buildings you recollect when you first know the place?—Yes, sir; no buildings but what I am after telling you.

45. And all the buildings that are there now were built in your time?—Yes, and built by Mr. Mulcahy.

46. Was there any boundary wall to the place that you recollect?—There was.

47. When you first recollect it?—No, but I recollect it being built.

48. Whose property was it on the other side of the wall?—One Mr. Garde's.

49. Did you live yourself with old Mr. Mulcahy?—I did, sir.

50. Did Mr. Mulcahy build the fence—who built the fence?—Oh, only for he did, the devil's fear they

would be built; he did a great deal of fences and planted trees there too.

51. Do you recollect was there an old camp there, or any traces of an old camp when you knew the place first?—It was after the camp I saw it, the old plough and stones remained there after the camp.

52. Do you recollect when you first knew the place, were there any trees growing on it?—Nothing but whistern trees growing in the old hedge.

53. And who planted the trees that are there now?—Mr. Mulcahy, of course.

54. Do you mean the father of the present gentleman?—Yes.

Cross-examined.

55. Mr. Gove.—What are you, Mulcahy, may I ask are you a farmer?—I am not.

56. What business do you carry on?—When I lived with Mr. Mulcahy I was a ploughman with him.

57. And do you still carry on the ploughing business?—No, I am not, nor able to do it now.

58. Living with your family, I suppose?—I am living with my family.

59. When you lived with Mr. Mulcahy, did you live in this timber house you described?—Faith, I did not.

60. Where did you live?—I lived in a house belonging to Mr. Mulcahy.

61. Did you ever live in this bearded house at all, you described—you said there was a bearded house only on this place?—So there was in the old place, convenient to where the dwelling-house is now.

62. Where did you live when you were with Mr. Mulcahy?—I lived on a part of his farm on the other side of the road, just opposite the house.

63. You told me that this house was built by Mr. Francis Mulcahy—the stone house?—Yes, it was of course, it was not there, and I recollect to have been sent to live in it too.

64. Do you know whether he built it at his own expense at all?—I don't know.

65. You never saw any of the French here in this old camp, I suppose, in 1815?—No.

Re-examined.

66. Sergeant Heslop.—Where did Mr. Mulcahy's father live before he built the dwelling-house?—I believe he lived down in Burgess's farm.

67. On another farm altogether?—Yes.

Dec 22, 1881.  
James Hally,

## JAMES HALLY swears and examined.

68. Mr. Kassanagk.—How old are you, Hally?—Seventy-three years.

69. How long have you known Nedians?—I have known it since I was ten years of age.

70. When you first knew it what condition was the land in?—It was miserable looking, there were no fences to it.

71. Were there any big trees there at all?—No.

72. What sort of a house was on it?—I saw a wooden house there, and three or four others tumbled about.

73. Were there any out-offices there at all?—There were a sort of offices.

74. What sort were they?—Old shacks.

75. Was there a boundary wall then between Nedians farm and Mr. Gard's place?—There was, it is there still.

76. Who built it?—Mr. Mulcahy. They built it between them—himself and Mr. Gard.

77. That is Mr. Francis Mulcahy?—Yes.

78. Do you know where Mr. Frank Mulcahy lived before he built this dwelling-house?—I could not know.

79. Did he live in this wooden house?—He might.

## Cross-examined.

80. Mr. Gibson.—Was not Frank's father's name Tom Mulcahy?—It was.

81. Do you recollect him?—I do not.

## JOHN MULCAHY swears and examined.

93. Sergeant Herphill.—Mr. Mulcahy, you are the tenant here?—Yes.

94. Are you living on these lands of Nedians Farrin?—Yes.

95. Were you born there?—I was.

96. When did your father die—do you recollect the year?—I do not.

97. Has he been dead some years?—He has.

98. Was he living there up to the time of his death?—No.

99. Did he give up the place to you on your marriage?—Yes.

100. What was the date of your marriage?—1858.

101. And he has not been living there since?—No.

102. Is that (produced) map a fair representation of the dwelling-house and offices that are now there?—I think it is.

103. Do you recollect yourself when the dwelling-house was built?—I do not.

104. It was built before you were born?—It was.

105. But you do not recollect—I recollect the building of some out-offices.

106. Do you know by whom it was built?—By my father, I always heard it.

107. Do you recollect any of the out-offices being built?—I do.

108. What offices do you recollect?—The last offices were built in 1844.

109. What were they?—A storehouse. It was not at the time intended to be built, but for cattle, and the other part of it was a coach-house, one end; there is a division between them.

110. There is a carriage—was that built in your recollection—next to the coach-house and store; was that built in your recollection?—Yes.

111. Now, the implement house, harness room, and stable—do you recollect when the implement house and harness room were built?—I don't know them by that name.

112. Can you tell, Mr. Mulcahy, what buildings you recollect yourself?—I recollect all the buildings being built, except the dwelling-house, dairy, and barn.

113. You recollect everything else in that square of offices?—Everything else.

82. Where do you live?—In Oshawa.

83. Where is that?—About a quarter of a mile away.

84. Do you recollect seeing old Tom?—How could I see him?

85. Did you ever see him?—No.

86. How long do you recollect this place?—About sixty years.

87. What is your age, do you say?—Seventy-three.

88. And have you been living all your life there?—Yes, and where I am now, in Oshawa.

89. As long as you recollect this place of Nedians, was Frank Mulcahy living there?—I saw no one else living there.

90. Where was he living when you knew him first, where did he sleep, where were his children playing?—With his father I suppose he used to be at night and come there by day.

91. I thought you said you knew nothing about old Tom. Did not old Tom die in 1820?—I don't know.

92. Upon your oath whose did Mr. Frank Mulcahy live when you knew him first?—I don't know, but I knew the farm well.

Sergeant Herphill.—Now, I enter the lease of 1800. (To Mr. Gibson).—Are you instructed to deny that his father built this place?

Mr. Gibson.—I know nothing about it, but the lease is demonstration there was a house and offices.

114. Was there any planting done in your time?—No, they were all planted.

115. Did they appear young or old trees when you recollect them first?—They looked to be old trees.

116. Now, Mr. Penny, do you know when he died?—In May, 1879.

117. When did you first become a tenant of Moanrees, was your father a tenant of Moanreal?—No.

118. But you had been for some years tenant of Moanrees before the expiration of your lease?—Yes, some couple of years or more, I am not sure how many.

119. Is there a good boundary wall around the place?—There is, part of it.

120. And how far does the river run through the place?—We have land of both sides of the river, and I should think a small mile.

121. Is it a good river for salmon?—Yes, splendid; it is about the best part of the river, or at least as good as any.

122. Is it pasture or tillage?—I use it as both, there is some of it under water.

123. You continued holding on after the expiration of the lease and paid your rent?—Yes.

124. Mr. Verner.—You said something about water?—The river flows in and covers the lower part, and destroys the grass, we cannot put the cattle on for some time until it gets cleaned again by rain.

125. Sergeant Herphill.—Before the expiration of the lease did you fish yourself and your friends?—Yes, and when the Colonel came to fish we did not fish, he did not wish anyone to interfere with him, unless we got special leave.

126. When did Mr. Butler, Tom Butler, come to be agent, Mr. Butler was the agent at first after the expiration of the lease?—Yes.

127. And then Major Hutchinson became the agent?—Yes.

128. Had you an interview with Colonel Charters yourself at Oshawa in 1872?—I had.

129. What month in 1872 do you recollect?—I don't recollect.

130. Will you just tell us shortly the substance of

what he said, and you said, we don't want the precise words!

131. Mr. VERNON.—Can you nearly fix the date?

132. Sergeant HOSPITAL.—Can you recollect what season of the year?—It was in summer, about August of July.

133. I am speaking of the first interview, was it in the spring?—Oh, yes, in the spring of 1872, I think.

134. When used Colonel Charters go to Cahier, generally, he had no residence there at that time, I think?—They built a residence there.

135. What conversation took place that may remind you of the month?—That is the first conversation!

136. Yes!—He said I should take a lease, "Mulcahy you must take a lease." I said, "I will, I will take a fair one." I said I would just as soon remain as I was.

137. If you can give us the substance of anything you said and he said at that conversation.

138. Mr. LORRIG.—Was this by appointment?—He was fishing and I went down to meet him.

139. Sergeant HOSPITAL.—Did you get a message to meet him?—I did—not at that time.

140. And he said "you must take a lease Mulcahy"?—Yes.

141. After that did you receive this letter of the 29th June, from Major Hutchinson?—Yes, I recollect getting letters from him—yes.

142. And you afterwards got a letter from the clerk, of 22nd July. Do you recollect receiving a letter of 28th September, from Major Hutchinson.

"His words are, I am surprised to hear of Mulcahy objecting now to the terms of his lease; he should have done so earlier, and you can tell him from me honest ably it or give up the farm."

Had you objected to the terms of the lease?—I had, I objected on all occasions that he spoke of the lease to me.

143. You received that letter?—I did.

144. Mr. LORRIG.—When did he first get a copy of the draft lease?

145. Sergeant HOSPITAL.—22nd July. Did you get the draft lease at that time?—I think so.

146. Was that the lease in its present shape as executed?—I suppose so.

147. Did you understand by that, that you would have to execute the lease whether you liked it or not?—I felt all along that I should take the lease; when he introduced it at all. I knew that I should take it. That was the first conversation we had.

148. When you got that letter quoting the words of Colonel Charters that you should abide by the terms of the lease or leave the place, did you look about to see whether you could get a place?—I did. I looked about everywhere and I was promised a place but at the last moment I would not get it.

149. Had you after that any interview with Major Hutchinson before the lease was executed?—I had.

150. That was the first interview you refer to?—Yes. He wrote to me; my wife and I went in and he read the lease for us. I objected to the lease. He asked me what clause did we find fault with. I said "with every one of the clauses," and he said he never knew Mr. Murdoch to draw a milder lease.

151. Mr. GIBSON.—Where was this interview?—In Cahier, in the office.

152. Sergeant HOSPITAL.—Did you designate the lease in any particular way?—I said it was a penal one.

153. I believe you are a magistrate?—I am.

154. You have got the commission lately?—About six or seven years ago.

155. Had you more than one interview with Major Hutchinson that you recollect. Was there anything about fishing in any interview you had with him?—Oh, yes.

156. What?—He said—I really forgot about the fishing.

157. Do you recollect any other interview with Major Hutchinson?—I don't recollect.

158. Here is the letter of 28th October, did you receive this letter from Major Hutchinson?—See p. 183  
John Maloney.

"I am surprised and disappointed at not having heard in reply to my letter of the 24th ult. conveying Colonel Charters' message to you respecting your farm. May I beg to bear from you in reply on the subject of Colonel Charters' letter, without further delay.

"Truly yours,

"WILLIAM HUTCHINSON."

You received that letter?—Yes, I got that letter.

159. Now do you recollect. Here is a copy of the letter here. Do you know in whose handwriting that letter (presumed) is. Can you state whether that letter was sent to Major Hutchinson or not?

160. Mr. GIBSON.—In whose handwriting is it, is it in yours?—No, it was a copy of a letter.

161. Sergeant HOSPITAL.—Do you know in whose handwriting it is?—I think it is in Mr. Barry's, the solicitor.

162. Can you say whether you instructed that letter to be written. Did you instruct that letter to be written complaining of the terms of the lease?—I did indeed.

163. Who did you instruct to write that letter?—Mr. Gibson objected.

164. Sergeant HOSPITAL.—You executed the lease afterwards?—I was obliged to do so. I had no place to go to, if I had I would not have taken it.

165. Is the rent too high?—Well, it is a great deal too high.

166. Have you been always farming yourself?—Always farming.

167. As between man and man what would be the fair rent putting out of question the improvements, assuming now that the improvements were made by you and your father, what would be the fair rent of the farm per acre?—A fair rent of the land would be about £21 I suppose.

168. That is the Irish acre?—Yes.

169. About £180 a year?—Yes.

170. Is the fishing valuable there?—It is.

171. There much timber there now or was there in 1872?—There was some cut down since we got leave to cut some.

172. I am speaking now of 1872?—Yes, there was, there was more then there is now.

173. Is it sycamore?—Sycamore, beech, and some ash.

174. Gross trees?—Yes.

175. And were there ornamental trees as well?—Yes, these were ornamental trees for shelter.

176. You had a valuation made of the present timber?—Yes.

177. About how many trees had been cut since 1872 up to the time of the valuation?—There were some cut—I cannot say how many.

178. Mr. VERNON.—You have seen this map of course?—Yes, sir.

179. How does it happen that the timber is not marked on this map made in 1840, and engraved in 1873, except just about the house?—I don't know.

Cross-examined.

180. Mr. GIBSON.—Where was it you cut the timber you say you cut since 1872, was it near the house in that plantation?—There was some cut near the house and some near the fence.

181. You cut a good deal of it at all events, and I suppose sold it?—I did not sell any of it.

182. Did you use it for firewood or building?—Used it for several purposes.

183. Did you use it for building?—No, none of the timber.

184. What did you use it for?—We burned some of it.

185. What did you do with the wood you did not burn?—The timber we cut it was nearly all burned except we might make some trifling things about the yard.

Dec. 22, 1880.  
John Malachy.

186. This place of yours is near the village of Ardfinnan, and three or four miles from Caher where there is a railway station—Five miles, Irish.
187. How near is it to the town of Clogheen?—About the same.
188. How near is it to Clonmal?—About eight miles.
189. It is principally grass land?—It is divided.
190. Do you observe in the original lease there is a covenant not to plough up, did you ever notice that?—I never did.
191. Except to a limited extent is it or is it not grass land?—I use it for grass and tillage.
192. Is it not principally for pasture?—No.
193. How much is in grass, have you got 120 Irish acres?—I suppose about that.
194. You have got an orchard have you not?—Yes.
195. And the orchard has been there a long time?—Yes.
196. And there is an excellent garden?—There is.
197. How much is in grass out of the 140, 120 I—  
I declare I have no idea, I cannot say.
198. About how much have you got in tillage every year?—I suppose from 22 to 25 Irish acres.
199. Now how many acres are under the orchard?—I suppose about 5 acres.
200. And you have got a large fruit garden, have you not?—Fruit and vegetables.
201. How much is that?—About half an acre.
202. And you have got a good flower garden there too?—Yes, we have.
203. And the lawn is nicely planted with trees?—There are a few trees.
204. It is a nice gentleman's residence?—It is nice enough.
205. How was it you got this place on your marriage in 1868, was it by a deed?—By a deed.
206. Where is the deed—have you got that deed?—It was settled on me on my marriage.
207. Have you got the deed?—Mr. Kavanagh said he would bring it down with him.
208. At all events you got it on your marriage?—Yes.
209. You told my learned friend, Mr. Sergeant Hemphill that all these buildings—the farm-offices with the exception of two were built within your memory!—With exception of three, the dwelling-house and two farm-houses.
210. Was there no stable in your father's time before you were born?—I cannot tell you.
211. As long as you recollect was there not a stable there?—There was a thatched stable with a mud wall to it.
212. What became of it?—It was thrown down when the other stable was being built.
213. You say the last of these buildings that you recollect were built in 1844?—Yes.
214. How far back does your memory go for the first buildings you recollect there being built?—I declare, I cannot say.
215. Is it 1834, for the first?—I recollect the last one being built.
216. Do you recollect the first one being built?—I do not, I don't think I do.
217. How many years ago was it, what age were you at the first time you saw stones and mortar being put up about the place?—I was a young man I suppose, a boy.
218. What was the first building you recollect being built there?—I think a cowhouse.
219. Which corner of the yard was it?—That long house.
220. What age were you at the time—were you in your first breeches?—I was.
221. You told us this like, Mr. Perry died in 1870, sometime in May?—I think so.
222. Do you recollect in the spring of 1872, when Colonel Charters came over, Mr. FitzGerald, the valuator, being employed?—I do.
223. Before Mr. FitzGerald was employed had you any conversation with Colonel Charters?—I had, in the office.
224. When, how long before?—Before Mr. FitzGerald came?
225. Yes; how long before Mr. FitzGerald appeared?—It was not very long.
226. About a week?—A week or ten days.
227. Do you recollect Mr. Thomas FitzGerald making a valuation?—I do.
228. That was the spring?—Yes.
229. Did you accompany him over the land when he was making the valuation?—I did.
230. Did you mention to him your desire to buy Mooneen, that small part which you held as tenant from year to year, put into the lease, and get him to value it accordingly?—I did.
231. And did Mr. FitzGerald go over the place very carefully with you?—He walked over the place with me.
232. Was it shortly before that time that Mr. Butler had ceased to be agent?—It was.
233. That is, in the spring of 1872, and Major Hutchinson had come to be agent?—Yes.
234. Had Major Hutchinson been living in the neighbourhood before or was he a stranger that came there?—A stranger.
235. Did Mr. FitzGerald tell you what value he was putting upon the various fields?—No; he told me he was valuing them all in themselves.
236. Did he tell you what value he was putting on them?—I don't recollect; the front of the house he said he valued at £8.
237. You knew Mr. FitzGerald was valuing there to put a rent on you with a view to your taking a new lease, you knew that?—Yes.
238. Did you ascertain from Mr. FitzGerald, whom you accompanied and went through the thing, did you ascertain from him what was the rent—what was the value he arrived at?—To the best of my belief, I did not.
239. Do you swear positively, one way or the other?—I don't recollect.
240. When first did you hear what was Mr. FitzGerald's valuation?—I think it was Major Hutchinson told me.
241. When was that?—was it orally or by letter?—When he was reading, I think, the draft deed for me.
242. Now, will you tell me when it was that you had this interview, you say, with Major Hutchinson in Caher?—I think it was the time I objected to signing the lease.
243. You have told us the details of the interview already, will you kindly fix the date—was it in the month of June, July, or August—was it in August?—I have no idea.
244. Was it in the autumn of the year?—I cannot tell you.
245. You know the letters which have been read by Mr. Sergeant Hemphill, your counsel, was it before or after you got a draft of this very lease you had the interview with Major Hutchinson?—It was after getting the draft, because my wife and I went to absent it.
246. Did you go with the draft in your hands to Major Hutchinson?—No.
247. Did you bring the draft with you?—I am not sure.
248. Did you make any written objection yourself to the draft—any written objection—did you write any letter yourself?—Yes, I wrote one letter to Major Hutchinson.
249. When?—I cannot tell you.
250. What date?—I cannot tell you; I recollect I wrote one letter.
251. Now, do you observe that in Major Hutchinson's letter of the 28th September he uses these words?—“I am anxious to convey Colonel Charters' message relative to your lease. His words are...” I am surprised to

how of Molashy objecting now to the terms of his lease; he should have done so earlier, and you can tell him from me he must abide by it or give up the farm."

Did you send any reply yourself to that letter of the 28th September?—I did not, I don't think I did.

252. Now, tell me, had you seen Colonel Charteris at any period after Mr. Fitzgerald's valuation. You know Colonel Charteris is dead?—Yes.

253. Did you see Colonel Charteris at any time after Fitzgerald's valuation in the month of May?—I should think not.

254. Will you swear you did not?—I don't think I did, because he went away immediately after that.

255. Did you ever see Major Hutchinson in the street of Clermont, and have any conversation with him, with regard to this lease; in 1872, I mean?—I never recollect that I met him in Clermont.

256. Had you any conversation with him in the street of any town with regard to the lease?—I don't think so, I don't recollect it, I don't think I had.

257. Now, you say this rent is too high?—Well, indeed, I think so, the rent I am paying is too high.

258. The value of the premises you say, without any buildings on them, would be £280 a year, what is the value of them with the buildings?—The value of the land with the buildings on it?

259. Yes?—If I am to get the benefit of the buildings I ought to have my rent lowered.

260. What is the value of the land with the buildings?—I think that would be fair enough, £2 an acre.

261. You said first that it was £2 an acre excluding buildings, suppose a tenant was to take the farm, build-

Dec 12, 1881.  
John Molashy.

ings and all, what would it be worth to such a tenant? What would it be worth, farm, land and buildings, as a fair rent to an incoming tenant?—It would be worth more than that.

262. What would it be worth, you take a long time to answer the question?—Because I cannot say how much he would be inclined to give for it, it would depend upon whether he liked the place or fancied the residence.

263. Is that the answer you give?—I cannot tell you how much it would be worth. I think what I am paying for it would be too much.

264. What would be the fair rent of the buildings and all, would it be £280 a year?—I have not an idea.

265. You cannot tell me?—No, I cannot.

266. Would it be £300 a year?—I declare I cannot tell.

267. Now, will you let me ask you just a question on your pedigree. Your grandfather was Tom Molashy, I think?—Yes.

268. And do you recollect that the family reputation is he died in 1830?—I cannot say when he died.

269. Are you able to say what the family reputation is?—No.

270. I believe your father had a large family?—Yes.

271. You are all extremely comfortably off, I need not ask you?—We are all well off, but my father was not depending on that, he had other property besides.

272. Sergeant Heslop—That little bit of land coloured violet is globe land that he purchased in fee simple, is not that so?—It is.

Thomas  
Butler.

THOMAS BUTLER, sworn and examined.

273. Sergeant Heslop.—Mr. Butler, these (preceding) are receipts; several of these are signed by you, I believe?—Yes, that is my signature.

274. Were you, Mr. Butler, for many years agent for the Charteris estate in Tipperary?—Yes, for a few years.

275. When did you cease to be agent?—In March, 1872.

276. And how long had you been agent previously over that property?—Seven or eight years.

277. I believe you have very large agencies in the County Tipperary?—Yes, I have got some agencies.

278. Besides property of your own?—Yes.

279. You live in Tipperary?—Yes, Ballycannon.

280. That is on the banks of the Suir?—Yes.

281. Do you know this place of Molashy's?—I used to know it well, when I was agent for the estate.

282. Now, did you know him to be a good tenant while you were agent?—These could not be a better tenant; could not have a better tenant or more satisfactory in every way.

283. You had no fault to find with him?—None, whatever.

284. Are you a good judge of the value of the land?—I have been farming 600 acres myself for the last thirty years.

285. Would you just give their lordships an idea of the nature of this place, is it nicely circumstanced?—Yes, very nicely circumstanced.

286. And the river runs through it?—Yes.

287. What would the land be worth between landlord and tenant fairly?—Not to take any improvements into account, and asking the tenant to forfeit all the rights he had?

288. Yes, I mean assuming he had them?—If I was called in to say a fair rent I should say £250 a year, that is assuming the tenant would have forfeited all his rights, fishing rights and the rights he must have had under the bill of 1870.

289. Mr. VENISON.—Would you say that was the value in 1872, Mr. Butler, or now?—I would say the value then, if the tenant was asked to forfeit all the rights he had.

290. I understand you to say the land was worth

£250 a year, I want to know would you consider that would be the fair rent now or the fair rent on the date of the granting of the lease in 1872?—I don't think that clear land has decreased in value since 1872.

291. Was it only worth £250 a year in 1872?—If I had been called in to say what would be a fair rent?—

292. I want to know is it his valuation in 1881 according to the prices of 1881, or his valuation in 1872?—

293. Sergeant Heslop.—Suppose the lease had expired this year instead of 1872?—And you asked the tenant to give up all his rights.

294. Yes?—I say £300 would be a fair and proper rent as between man and man.

295. Judge O'HANAN.—Would it have been more in 1872?—I think not.

296. Sergeant Heslop.—As I understand by that answer if the tenant had no interest in the improvements or nothing to claim for them, if they were all the property of landlord, you would then value it higher?—Of course.

297. Judge O'HANAN.—I understand the answer that he would value it at £250 assuming the land was let as it stood, the tenant having no interest in it?—That is not so.

298. That is what you said Mr. Butler?—In consideration for his having forfeited his rights, his rent ought to be fixed at £250, in consideration of it.

299. Sergeant Heslop.—Assuming that he had a certain interest acquired when the lease was made you say he ought to have only paid £150?—In consideration of his having forfeited rights.

300. Allowing the rights of fishing and all the other rights under the Act of 1870, and the trees and the improvements, £250 would be a fair rent to charge him for it?—Yes.

301. Sergeant Heslop.—Suppose he had no interest in the place, what would be the letting value of the place fairly between man and man?—£300.

302. Mr. LITTON.—£30 would represent the interest of the tenant according to your estimate?—That is my estimate.

303. Mr. VENISON.—According to that, Mr. Butler, would he not have been paying to you an excessive

See 22, 1862.

Thomas  
Barker.

rent from 1866 to 1871!—It might have been an excessive rent.

304. Sergeant Hesburgh—*I suppose you had no control over the rent, you could not help its being excessive!*—It is the rent reserved in the lease.

305. Do you know, as a matter of fact, whether that fishery was valuable?—As a matter of fact I do not.

306. Have you any experience in that species of property?—I have.

307. And was it valuable?—I should say so; it has been so for the last ten years; I don't know what it may be now.

308. Had you the letting of any other portion of the river for Lady Margaret when you were agent?—No, I think not. I should say the value of that fishery would be something like £40 or £50 a year.

309. Mr. VERNON.—Do you mean the fishery would be worth £40 or £50 a year if the lessor exercised his undoubted right of fishing concurrently with the tenant?—If let for a fishery.

310. Yes; but that is not my question. If the lessor, as I understand the terms of the lease—the lessor has, an absolute right to the fishery, not an exclusive right—supposing him to exercise the right which he undoubtedly has under the lease of 1860, would you still consider that fishery worth £40?—No, I should say half that.

311. Were the buildings, the farm buildings, and the house, and all that, suitable to the place when you knew the place in 1872?—I think so, as well as I remember.

Cross-examined.

312. Mr. Gibson.—You say that you were agent for six or seven years over this property, and passed these receipts. You gave up the agency in spring 1872?—In March, 1872.

313. But up to that time were you aware the lessor of 1860 had dropped by the death of this last life?—I think not.

314. Had you been told it by the tenant?—I don't remember.

315. Now, Colonel Charteris lived in England?—Lived in England.

316. You told the court that this place was very nicely circumstanced, it is convenient to three large market towns, and it is near this village, that is so?

—It is convenient to Clonmel, a large market, the only market town.

317. Is there not a market in Cahir?—Very small indeed, very trifling.

318. Is there not a pig market there?—Yes, once a month.

319. Is it a good market?—It is pretty fair.

320. We all know the railway is there, how many miles is Cahir from this place?—Five miles away.

321. You have told us the value of this place, excluding all rights whatever, is £250, and if let as it stands it would be fairly worth £300, that is a difference of £70 a year?—Yes.

322. Will you tell us how you distribute that £70 a year, how much you put down for buildings, how much for trees, and how much for fishery, have you considered that?—Not in detail.

323. You were aware of the rent payable under the old lease of 1860 when giving these figures?—Yes.

324. You were aware under that lease substantially it was £318 or £320 a year?—Yes.

325. And that lease was made when according to the evidence given here to-day there were none of these improvements, with the exception of the undivided right of fishing?—Yes.

326. Does that at all affect your evidence?—No, it does not.

327. Is it your opinion that the rent was an excessive rent, which this Mr. Mulcahy was paying you, while you were agent?—That is my opinion.

328. But he paid it regularly and punctually?—Very punctually.

329. Did he pay it cheerfully, did he ever grumble?—He grumbled occasionally, and asked me to make some improvements.

330. Did he grumble at the amount of rent, or was it grumbling to get improvements made for him?—He complained that the place was highly rented, and thought, in consideration of that, some improvements should be made for him.

331. Did you make any improvements?—No.

332. Did you allow him to cut down some trees?—I don't recollect.

333. There is a nice orchard there?—Yes. The lessor was wanting some improvements when I was at Cahir. I don't know has anything been done since.

## JAMES DWYER, sworn and examined.

James Dwyer.

334. Mr. ENNISOPH.—You are a builder in Clonmel, I believe?—Yes, sir.

335. Was it you made that plan (*profile*) of the buildings at Nedham's?—Yes, sir.

336. What do the entire buildings consist of?—There is a dwelling-house, and there is an additional house attached to the dwelling-house, kitchen, servants' apartments, porch, dairy, there is a range of buildings for bulls and cows, barn, and granary, stable buildings, piggery, and stabling, side buildings, stable and harness room, coach-house, store room, fluey (i), carshed outside, and shed back of the cowhouse.

337. What do you value the buildings at?—£1,500.

338. Is it your opinion they could not be put up for less than that now?—They could not be done for that now.

Cross-examined.

339. Mr. Gibson.—Are you a builder or a mason?—A builder.

340. Have you had any contracts for the last twelve months?—Yes, sir.

341. I am glad to hear it, and these buildings are valued for £1,500?—Yes, they are.

342. Is that every bit of stone and mortar there is at Nedham's?—Yes, sir.

343. Is there any masonry you have not valued at all?—All that is on the map.

344. Is there any buildings that are not on the map?—The lodge is not on it.

345. Is there anything up near the house or office?—There is a thatched house I took no notice of.

346. Where do you carry on business?—At Clonmel.

347. Mr. VERNON.—When you say £1,500, do you mean to say that that is what these buildings cost is put on the ground, or the present subsisting value of the buildings?—What they would cost to erect fifty years ago.

348. Mr. Gibson.—To put them up now?—Yes.

349. Mr. VERNON.—What would they cost now?—Fairly per cent. more.

350. Mr. Gibson.—What would you take off for use and enjoyment and wear and tear, and supposing there was no difference in builder's prices between fifty years ago and the present, what would they be worth now?—They would be deteriorated £300.

351. Mr. ENNISOPH.—What condition are they in now?—They are in fair condition.

352. Sergeant Hesburgh.—There are slates on the dwelling?—Yes, sir; ten slates.

PATRICK CONNOLY sworn and examined.

Dec 12, 1861.

Patrick Connolly.

353. Sergeant Hesphill.—Where do you live?—I live near Cheadle, in the county of Waterford.

354. What business do you follow?—Land steward and forester.

355. Do you understand about timber?—I do.

356. And the value of timber?—I do.

357. Do you know this place of Mr. Mulcahy's at Nedians Farin?—I do.

358. Did you visit it lately?—I did, on the 8th of the present month.

359. Did you visit it for the purpose of a valuation?—I did.

360. Did you make a list of the trees?

Mr. Gibson objected.

361. Sergeant Hesphill.—At all events you made a list of the timber?—I did.

[Sergeant Hesphill reads certificate under the hand of the Clerk of the Peace, dated 1815, certifying that there were on the holding 1,770 Scotch fir, 324 larch, 250 beech, and 260 sycamore.]

362. You say you visited the place for the purpose of valuing the timber?—I did.

363. Did you make a valuation?—I did.

364. How many trees did you value?—Over 700.

365. What apparent age were they, the oldest?—About 100 years.

366. And the youngest?—About twenty years.

367. Can you say whether any of them must have been planted before 1815?—They may.

368. Must they have been?—I thought they might be 100 years of age more or less.

369. Can you tell with any certainty the age of a tree after 50 years old without cutting it?—No, except by the size.

370. What number of trees do you give?—717.

371. And what value do you put on them?—£347 5s.

372. Have you got the details?—I have.

373. Does that represent their value if cut, or their value as standing?—The growing value at present.

374. I suppose if cut they would not sell for anything like that?—No.

375. But taking them as trees growing you valued them at that?—Yes.

376. I suppose there are various kinds of trees?—Yes, sycamore, beech, larch.

Cross-examined.

377. Mr. Gibson.—How many of them are a 100 years old?—I cannot tell the exact number.

378. How did you get at the exact figure, £347?—I counted the trees up and valued them.

379. How do you value the trees as standing; is it on account of their beauty?—No, I value them for ornament, and shelter, and for sale.

380. How much of the £340 odd, do you put down for ornament?—£100.

381. How much do you put down for sale?—£250.

382. Now how much do you put down for shelter?—I put down £100 for shelter and ornament.

383. Do you observe that is £100 over what you have sworn?—No, sir.

384. Now will you tell me, when you say those trees would be worth so much, how many of them are 100 years old?—To the best of my knowledge about 400.

385. How many of them are larch?—I should look over the book to tell you that. I counted them but I put them down as mixed varieties.

386. How many of them have you as larch?

387. Sergeant Hesphill.—Have you anything else in that book?—No.

388. Is it a correct account?—Yes.

THOMAS FITZGERALD, sworn and examined.

T. Fitzgerald.

389. Mr. Gibson.—Now, Mr. Fitzgerald, we used not ask you who you are, you are the eminent valuator. Do you recollect making this valuation in 1873?—I do.

390. Have you got the original report dated 30th May, 1872?—I have.

391. On the occasion of your making that valuation were you accompanied by the tenant?—Mr. Mulcahy, yes.

392. And did you go over the various fields with him?—I did.

393. And did he point out to you the qualities and peculiarities of the various fields?—We fairly examined the place.

394. And was it on your own observation and from what he told you that you made the valuation?—I made the valuation as I found the place.

395. Did you communicate to him the valuation you put down for each of the fields?—Certainly not.

396. Now, will you tell me the valuation you made?—I put £334 18s. 10d. upon Nedians and £6 upon Meancers.

397. Did Mr. Mulcahy ask you to include Moonscore?—Yes.

398. He held that, I believe, previously from year to year?—I don't know how he held it.

399. What was the acreage of Nedians Farin?—138a. 0s. 39r.

400. What is that English?—221a. 2s. 28r. That acreage was taken from the printed rental of the Glengall estate.

401. What was the acreage of Moonscore?—4a. 1s. 1d. statute, or 2a. 3s. 39r. Irish.

402. Can you tell me did that exclude the waste of the river?—It did, in my valuation the river is excluded altogether; there is 8a. 2s. 12d. of river.

403. Do you recollect was that waste of the river mentioned at all between you and Mr. Mulcahy at the

time when you were going over the place?—I don't recollect, it is in the Landed Estates Court rental.

404. And is that the fair letting value?—That I consider to be the full letting value to an incoming tenant.

405. There is no distinction of improvements or otherwise?—Yes; I gave in my observations what I considered to be the value of the house, and offices, and orchard, and that is included in that—that is £35.

406. Is the value of the house, offices and orchard included in the figure you have mentioned?—It is.

407. What you mean is you did not include them in your valuation?—No, I left that to the estate to do, I valued the place as I found it.

Cross-examined.

408. Sergeant Hesphill.—Have you any objection to let me see that valuation (produced). Are you quite sure, Mr. Fitzgerald, that the 221a. 2s. 28r. excludes what was under water?—Oh, certainly.

409. Did you in your valuation take into account at all the ownership by the glebe?—It is not included in that.

410. That is, the acreage is not?—No.

411. But in considering that, in valuing the rent, did you take into account that Mr. Mulcahy had that strip running through?—I excluded that altogether, it did not influence my valuation.

412. Would it not be less valuable as a farm separating a third party had a strip of land running through it?—Certainly.

413. You did not estimate what the depreciation would be?—No, I understood it was his own.

414. Would you put anything on for that depreciation, supposing a third party was taking the land?—I don't think I would. I think whoever owned that strip would be only too glad to get the tenant who occupied the entire land to take it.

Dec 22, 1881.  
T. Fitzgerald.

415. But assuming he did not!—Assuming the strip was there and a lot of cabins were built on it, it would depreciate the surrounding property.

416. Mr. VERNON.—There is a road leading through the globe land!—No. It is more than nine years ago now, and my recollection is that globe is not fenced at all.

417. Sergeant HOSPITAL.—There is a burying ground on the Ordnance Survey there, as I understand £30 is the value which is between men and men a solvent

tenant would pay no matter who he was, at that date!—No matter who he was, assuming the land was in the landlord's hands to let it to a respectable tenant.

418. That is the way you valued it!—I got no special directions.

419. I see you very properly valued the house separately, and the orchard separately!—I put that in my observation, to let the estate deal with it as they liked.

Dec. 23, 1881.  
Major WILLIAM HUTCHINSON,  
Buckingham.

420. Mr. GREER.—Major Hutchinson, I believe you are the present agent for Lady Margaret Charteris!—Yes.

421. And when were you appointed agent?—In March, 1872.

422. Do you remember the first day upon which you went down to receive rents in Cahirci!—I do.

423. Was that the 15th of March, 1872?—Yes.

424. Was that the first time you received rent from Mr. John Mulcahy!—It was.

425. At that time you were residing at Monkstown in the county Dublin!—I was.

426. And you went down on the rent days to attend at the office!—Yes.

427. Did you know then that the lease under which Mr. Mulcahy held had dropped!—No, I did not.

428. You remember sometime in May, I believe, having an interview between Colonel Charteris and Mr. Mulcahy!—I do.

429. Where did that interview take place?—In the office.

430. Was that in the estate office at Cahirci?—Yes, at Cahirci.

431. Was there any conversation about granting a new lease?—There was.

432. Now will you tell the court whatever occurred in Mr. Mulcahy's presence about that?—Colonel Charteris told him that he would be anxious to grant him a renewal lease.

433. Sergeant HOSPITAL.—Are you mentioning now something that passed between you and Mr. Mulcahy?—I am speaking of an interview at which Mr. Mulcahy was present. Colonel Charteris told him he was anxious to grant him a renewal lease.

434. Mr. GREER.—Did he state anything about the rent?—He told him the terms upon which he would grant that renewal lease, namely, a thirty-one years lease contracting him out of the provisions of the Act of 1870; and also he was to pay the entire of the grand jury costs.

435. Was anything said about the fishing?—Yes, reserving the exclusive right of game and fishing.

436. And was anything said about a valuation?—Yes.

437. Very well, what was said about a valuation?—The letting was to be under a valuation.

438. Do you remember was the name of the valuator mentioned?

Sergeant HOSPITAL.—I think you had better not suggest because we have given a different account of the conversation.

439. Mr. LERROS.—On that occasion!—On that occasion.

440. Mr. GREER.—Did Mr. Mulcahy make any request on that occasion as to any portion of the land he held being left out?—Yes, he asked Colonel Charteris to include a small portion of Moanoree in the new lease, and omit a small portion of Nedians Farris that his brother held under the lease of 1806.

441. I believe his brother is Mr. James Mulcahy!—Yes.

442. And is that piece of Moanoree the piece he has now?—Yes, the same. There was also some conversation about the quantity of land to be under tillage.

443. What was said about that?—Colonel Charteris wished to confirm him that he should not break more than a certain portion.

444. Did Mr. Mulcahy, on that occasion, make any objection to the proposed terms?—He did not.

445. Do you remember the time when the valuation was made, about the 30th May, I believe, the valuation was in fact made?—Yes, I wrote to Mr. Fitzgerald, and he made the valuation.

446. Do you remember after the valuation was made had you any further interview or communication with Mr. Mulcahy?—Yes.

447. Will you tell me what occurred then?—After I received the valuation, and Colonel Charteris leaving Cahirci, I visited every tenant on the estate—and among them Mr. Mulcahy, I informed him of Mr. Fitzgerald's valuation. He thought the rent was high, and he felt very much being deprived of the fishing.

448. Did anything further occur?—No, nothing further.

449. Do you remember when the draft lease was sent to Mr. Mulcahy?—I do.

450. Was that in a letter of the 23rd July, written by Mr. Moran, a clerk in the office?—Yes, I directed Mr. Moran to send the draft lease to Mr. Mulcahy.

451. I believe that lease was prepared by Mr. Robert Mardon!—It was.

452. Is that (produced) the draft lease?—Yes, that is the draft lease.

453. Now up to the time that you wrote the letter of the 28th September, that we have in evidence that letter. Do you remember a letter which you wrote to Mr. Mulcahy on the 28th September?—Yes.

454. Now up to the time you wrote that letter had Mr. Mulcahy returned the draft lease, or made any objections to its terms?—He had not, nor did he make any objections to me.

455. Did you get any reply from Mr. Mulcahy to this letter of the 28th September?—I did not.

456. Did you then write him a further letter of the 8th October (produced)?—I did.

457. Did you get any written reply to that letter of the 8th October?—None.

458. Did you get any verbal reply to this letter of the 8th October, or when did you next see Mr. Mulcahy after it?—I recollect meeting Mr. Mulcahy in Bagwell-street, Cheadle, after the letter of the 8th October. I crossed the street and went over to him, and asked him why he had not replied to my letter about the draft lease, that I would have to—. I then repeated the substance of that letter of Colonel Charteris to him again, and I told him I would have one way or another to acquaint Colonel Charteris with his intentions, he told me he would bring me the draft lease, and he did so.

Dec. 31, 1881  
Major William Hutchinson

459. That draft was afterwards engrossed!—That draft was afterwards engrossed.

460. Mr. LEVISON.—Did anything take place when he brought back the lease?

461. Mr. Green.—Do you remember what took place when he brought back the lease?—As far as I can recollect he still was seen on the subject of the fishing.

462. Do you remember anything else?—No, I do not, I send it up for engrossment.

463. Now at this period did Mr. Mulcahy, or at any time, say he was a tenant from year to year, or wished to continue as a tenant from year to year?—Never.

464. I believe you have been a considerable time acting as land agent upon different estates, Major Hutchinson!—I have, about thirty years.

465. And have you experience of the value of property?—Well, I have some.

466. Can you form an opinion as to what would be the fair letting value of a holding of this description?—Well, yes.

467. Do you think that the rent in the present lease is a fair one?—I do, for such a farm.

468. Do you remember having any interview with Mr. Mulcahy and his wife, Mrs. Mulcahy?—I do not.

469. Did you hear Mr. Mulcahy yesterday state that at some interview which you had with him he objected to all the terms of the lease, and described it as a penal lease?—I did, I heard him say so.

470. Does your recollection accord with anything of that kind?—I heard him yesterday say so, and I was astonished.

471. According to your recollection did such a thing ever take place?—No, certainly not—he said in July.

472. Did such a thing take place at any time after he got the draft?—No.

Cross-examined.

473. Sergeant Heslop!—You say you were appointed in May?—No, in March.

474. Did you not know then that the lease had expired?—I did not.

475. Did you know it in May when that conversation took place with Colonel Charteris?—Colonel Charteris—

476. Answer the question first, did you not know it in May when that conversation took place between Charteris and Mulcahy?—I did by Colonel Charteris telling him.

477. Then Colonel Charteris told you in May?—Yes, he was the first person told me.

478. It was manifest from the conversation he must have known it. Had you any rental or anything furnished to you before that?—No.

479. When did you go down there—you don't live in Tipperary you know, or you did not previous to that—when did you go down to be installed in the agency?—I went down in May to meet Colonel and Lady Charteris, to take up my residence there.

480. And I presume only you went in May you would not know anything about the details of the rental?—No.

481. Did Colonel Charteris tell you in May this lease had expired, and this conversation took place?—Yes.

482. And you had no doubt after this conversation that the lease had expired?—Yes.

483. This is your receipt, I think?—Yes, 15th March, 1872.

484. You gave a receipt then for a year's rent up to the 29th September, 1872. Was not that before you went down to the country? Did you not tell me just now you went down to the country in May for the first time?—I went down to reside—but I went down to collect rent from time to time.

485. My question is, when, in point of fact, did you in your body corporate first go down to this estate?—15th March, 1872.

486. And was it on that day you received this

rent?—Yes, I went down by the night mail and was there on the 15th March, 1872.

487. Was it from Mr. Mulcahy himself you got the particulars of what the half-year's rent was?—Mr. Mulcahy himself paid me that rent.

488. Did you know what he was to pay you before you went down? What is the rental of this estate?—Something about £14,000 a year.

489. And how many tenants are on it?—There are about 450.

490. I suppose you did not carry the rents of all these tenants in your head?—No; of course not.

491. Had you anything at all to guide you as to what the half-year's rent was to be from each of these tenants?—Nothing but that receipt.

492. Where was it filled for you?—It was filled and brought in to me by Mr. Mulcahy, and I took the money and signed the receipt.

493. Was that the way all the tenants paid, or did any pay that day except Mulcahy?—Several paid.

494. And did they all bring in their receipts?—Yes.

495. Mr. VERNON.—Do you mean to say all the tenants brought in the receipts themselves?—Yes, filled up by the clerk in the outside office.

496. Sergeant Heslop!—That is Moran!—Yes.

497. Is Moran here?—No.

498. Now we have it—it was the clerk in the estate office, Moran, the prime minister of the office, that filled up the receipts!—Yes.

499. Is Moran here?—He is not.

500. Is he a living man?—He is.

501. Where is he at present?—In Cahir.

502. And there is a railway from Cahir to Duhlin?—There is.

503. Mr. Gildea.—Could he be here?—He could not be here.

504. Sergeant Heslop!—Why could he not be here?—Because he is paralytic, his mind is gone from a paralytic stroke, and he is now a pensioner on the estate at his full salary.

505. But at all events Moran was the man that knew all the details of the tenants and their holdings, was he not?—Precisely.

506. And you very properly went on the rule of never refusing money when it was offered to you, and you took the rent?—It would be very difficult for me to know the rent each tenant paid the first day I went to Cahir, or know the business of the estate office.

507. At all events, you heard from Colonel Charteris in May the lease had expired, and you then gave this receipt, 29th September, 1872, for the half-year's rent, due and ending 25th March, 1873?—Yes.

508. You were fully aware then that the lease had expired?—Yes.

509. Did you know when the lease had expired?—I did not.

510. You don't recollect hearing that?—No.

511. Then for anything you knew it might have expired long before or only shortly before?—It might.

512. Was it in the office that the conversation with Colonel Charteris and Mr. Mulcahy took place?—It was.

513. I presume you did not think it of sufficient importance to make any memorandum of the conversation at the time?—No.

514. And you are only speaking now altogether from recollection?—Yes.

515. Was he in the habit of holding a visitation of the tenants when he came?—No, generally when he came there he went around the tenants.

516. Yes, he used not to have them in the office,

Dec. 31, 1894  
Major William  
Hutchinson.

and he used to lose anything they had to say, and you are speaking of that conversation altogether from recollection!—Of course I must after a lapse of nine years.

517. You knew he had rights under the Land Act at that time when that conversation took place?—Well, yes, of course.

518. You knew he had rights under the Land Act?—After his lease expired after the passing of the Act, of course. I would consider he had.

519. In respect of his improvements and otherwise?—Yes.

520. Was that present to Colonel Charteris' mind on that day?—I cannot tell.

521. Was it present to your mind?—It was not.

522. Do you believe it was present to either of your minds?—I never thought of it.

523. And if it was not present to either of your minds how did the conversation take place about contracting himself out of the Act of 1870?—I don't know. That was one of the conditions.

524. But how did it come to be mentioned, how did such an idea enter into your heads at all?—It entered into Colonel Charteris' head.

525. Had you had any conversation with Colonel Charteris?—I had not.

526. Had you heard this man and his father had spent large sums of money on buildings?—I had not.

527. Did you make any inquiries about it?—I did not.

528. Were you aware that there was an old lease under which he held?—

529. Dating as far back as 1800?—No. I did not know he was a leaseholder ever.

530. Had you visited the place at this time?—I had not.

531. And there was nothing present to your minds about contracting himself out of the Land Act. How many conversations were you present at between Mulcahy and Colonel Charteris before the execution of the lease?—Only the one.

532. You say that there was a mention made there of the exclusive right of fishing, are you quite clear of that?—I am.

533. Or was it on a subsequent occasion that arose?—I am quite clear that was mentioned.

534. Did Colonel Charteris say he would reserve to him the right of fishing for himself—I mean to Mulcahy?—No.

535. Was there anything about one rod?—No.

536. At any time between you and Mulcahy?—Yes, there was.

537. But not between Charteris and him?—No.

538. Was anything said about a fair rent on that day?—No, not that I remember.

539. Did you hear Mr. Mulcahy examined yesterday?—Yes.

540. Will you take it upon yourself to swear now, as a matter of fact, that Mulcahy did not on that occasion say "I will take a lease if it is a fair lease," or words to that effect?—He did not, that I can remember.

541. That is you have not fixed on your memory?—No.

542. Will you undertake to say he did not say it?—Not that I can remember.

543. You did not know anything about the terms of the old lease?—I did not.

544. And you did not know that he had under the old lease a concurrent right of fishing and shooting with the landlord?—No.

545. Were there many of those leases made at the time on the estate?—Only one other lease.

546. At that time?—No, some years after. There have been only two agricultural leases given on the estate since I have been there. Mr. Mulcahy was one, and there was one other.

547. Had you ever seen this draft lease before—I mean before this contention arose, do you recollect seeing this draft yourself?—Of course I did.

548. Then, in whose handwriting is it filled up?—I suppose a clerk in Mr. Mardon's office.

549. And where did you first see it, is it filled up by Moran?—No, I believe by Mr. David here.

550. When did you first see it?—In July, I think.

551. Was it in the same state then when you first saw it as it is now?—Oh, no, it has been out of my possession since.

552. With whom did you first see it?—It was sent to me by Colonel Charteris. It was sent to Colonel Charteris by Mr. Mardon, and sent by Colonel Charteris to me.

553. If that is so when was this date filled in, the day of August, 1871?—I don't know what it was put in.

Mr. Nokes, Solicitor.—I put it in myself the other day in Mr. Weldon's office to make it conformable.

554. Sergeant Hampson—I see the rest in the proposed draft was £350 18s. 10d. originally, that could not have been a mere mistake, £341 than is written over £350, can you tell me when that was done. Was that the way it stood originally when you got it from Colonel Charteris in London?—I think that was corrected by Moran, that is Moran's writing after it came to me.

555. Was there at anytime any mention made of paying a sum of £350 18s. 10d.?—No, it was £340 I think it was. I will tell you by the book.

556. No, I want your recollection, was there any rent fixed on in that interview of May, with Charteris?—The rent fixed upon was Mr. Fitzgerald's valuation.

557. There was no rent mentioned?—No. You are mentioned.

558. Was it mentioned in the conversation by Charteris?—Oh, he did not know the valuation.

559. That is what I say, he did not know the valuation?—No.

560. When did you first get the particulars of the valuation from Fitzgerald?—In May.

561. Did you furnish it?—The moment I got it I sent it direct to Colonel Charteris.

562. If that is so might I ask you why this £350 got into that draft?—That I cannot tell.

563. Can you tell when the date was put into this draft?—I cannot unless it was filled in in Mr. Weldon's office. The rent was £340 18s. 10d.—and so.

564. You are sure of that?—I am perfectly sure of it.

565. You are wrong, it is £341?—Yes, Mr. Macdonald put on the 1<sup>st</sup> Ed., and made it £341.

566. Have you seen the place lately?—I have.

567. Are the dwelling-houses and offices in good order?—They are.

568. Are they excellently well suited to the place?—They are.

569. A fine range of offices?—Yes.

570. A good substantial dwelling-house?—It is a good house, a small, nice, little house.

571. I mean for a gentleman of moderate means it is much better than to be overhoused, as it well planted?—Yes, that is about the house.

572. And a good boundary wall?—There is a boundary wall running down to the river between Mr. Gard's property and his.

573. Did you notice that the roof seemed to be a new roof on the dwelling-house?—Yes, and I mentioned it to Mr. Mulcahy himself.

574. When was it, if you please, that he expressed himself very much hurt at being deprived of the fishing?—In June.

575. Was that before the draft lease or after the draft lease?—That was when I got the valuation, when I informed him of the valuation.

576. Will you swear it was not after that?—I will, because I left Cork.

577. Did you on that occasion premise him that he himself would have a right of fishing in the river that ran through the place?—No, I did not, but I told him that as far as I was concerned would give him every facility to fish, and I did so.

578. We are not speaking of that, but did you as a matter of fact give him to understand that there would be reserved to him the right of fishing?—No, not reserved. I told him that as far as I was concerned I would give him every permission to fish.

579. Did he afterwards when he saw the draft lease, or when you had a conversation with him afterwards about the draft lease, complain that there had been no provision of that sort introduced?—He did not.

580. What did he say about the fishing after he had seen the draft lease?—He murmured about the fishing, he did not complain until September.

581. He had seen the draft lease at that time, what did he murmur about the fishing?—That it was very hard he should be deprived of the fishing.

582. What did you say to that?—I could make him no reply, it was the order of my principal that the fishing should be prohibited.

583. The principal had determined on that?—Yes.

584. And if that had not been agreed to he would have put him out?—I cannot tell.

585. What did you understand by that, did Colonel Charters intend you to write that letter in which you quote Colonel Charteris' words?—He did.

586. Did you understand by those words that if he did not adopt the lease he would be put out?—I cannot tell.

587. Had you any image in your mind at all, what did you mean now when you wrote that letter of the 28th September. “I am surprised to hear of Mulcahy objecting now to the terms of the lease.” You had communicated the objection I presume?—I did immediately.

588. “He should have done so earlier, and you can tell him from me he must abide by it or give up his farm.” What did you understand by that was in Colonel Charteris' mind?—That he might have carried his intentions out.

589. What intentions?—His intentions of putting him out.

590. Then he entertained those intentions?—He might have done so.

591. Have you any doubt he did?—Yes, I have because Colonel Charteris was not the man to coerce anyone.

592. Then you by writing that, did not mean to convey to him that he would be put out?—I quoted exactly Colonel Charteris' letter.

593. And what did you understand yourself, by what Colonel Charteris said?—That he might have done so and carried out his threat.

594. Did you afterwards repeat in a verbal conversation to Mulcahy the same?—I did that day, I met him in Clevedon after the 8th October.

595. Did you do that for the purpose of inducing him to take out the lease?—No, to get something, whether he would say yes—that he should decide one way or the other, because he had the draft lease, and he would not give it up—if it was decided one way or the other that I might communicate with Colonel Charteris.

596. Then in fact there was no necessity for his taking out the lease at all, is that your evidence?—No.

597. Is that your evidence Major Hutchinson?—No, it is not.

598. Was he bound to take out the lease, or else go?—How can I tell.

599. What do you believe, sir?—I cannot tell what Colonel Charteris would carry out.

600. Can you form any belief on the subject?—I cannot know, I told you, from my slight knowledge.

601. Had you any conversation with him about

the timber when he was complaining of the lease?—  
No.

602. Was there anything said about his getting boards for some purposes connected with the place?—No, he asked me some three or four years ago to allow him to cut timber.

603. No, but I am speaking about that time?—No.

604. What were you going to refer to?—He asked me three or four years ago to allow him to cut timber and I gave him permission.

605. I am speaking about 1872, had you any conversation with him about boards at all?—No, none.

606. When did Colonel Charteris come next to the country, do you know?—I am not quite sure whether he came at all to the country. I don't think he came to the country at all after that. He died in 1874, he was in bed health at the time.

607. You say that £340 is a fair rent?—It was a fair rent at that time.

608. Is that giving the benefit of the improvements to the tenant?—Supposing the tenant had been the person who had done the improvements?—No, I would say not.

609. That is, you say it was a fair rent as the thing stood?—Yes.

610. Assuming for the purposes of my question, that all these houses you saw there had been built by the tenant, or his father, and all the timber planted—assuming that for the purposes of my question then, what value would you put upon it?—I would consider about £300 would be a fair rent.

611. You would only give the tenant £41 for the value of all those improvements?—I would, that is all I would give.

612. And for the timber and everything?—Yes, if you take £41 for thirty-one years.

#### Re-examined.

613. Mr. Groom.—Now, Major Hutchinson, at this interview in May with Colonel Charteris and Mr. Mulcahy, what did Colonel Charteris exactly say about the lease. Did Colonel Charteris say anything about the old lease to you then?—He told me the old lease had expired, he told me that Mr. Mulcahy was overholding.

614. Was that his phrase?—Yes, he made use of the word “overholding,” that the lease had run out and he was overholding, gave me to understand that.

615. Do you remember the instructions given to Mr. Murdoch, do you remember the time that you sent Mr. Murdoch instructions for this lease?—Yes.

616. Just take your letter book.

Sergeant Heslop objected.

Judge O'HAGAN.—He is entitled to look at it to refresh his memory.

617. Sergeant Heslop.—Is that book in your handwriting?—It is, shall I read it?

Judge O'HAGAN.—No, you are not to read anything out of it.

618. Mr. Groom.—Just looking at that letter, can you tell me the nature of the instructions?

Sergeant Heslop.—I object to any instructions given to Lord Glenall's solicitor.

619. Mr. Groom.—Had you any interview with Mr. Murdoch about the lease?—No, but I was directed by Colonel Charteris to give Mr. Murdoch instructions.

620. Did you get any instructions in Mr. Murdoch's presence at that interview about the lease beyond what you have already told us?—No.

Mr. Gilson.—We close, reading the Landed Estates Court Conveyance of 8th February, 1861.

Judgment reserved.

Dec. 21, 1882.

Major William Hutchinson

BEFORE MR. JUSTICE O'HAGAN, AND MR. COMMISSIONER LITTON, Q.C.

JAN. 26, 27, 1882.

LIMERICK, JANUARY 26th and 27th, 1882.

ANDREW BURKE, JAMES McCARTHY, AND JOHN HOGAN (Drinagh), Tenants,  
MISS W. STACPOOLE, - - - - - Landlord.

Mr. Roche, instructed by Mr. Justice Sherman, appeared for the tenants; Mr. Atkinson, Q.C.,  
instructed by Mr. Collinson, appeared for the landlord.

ANDREW BURKE v. MISS STACPOOLE.

ANDREW BURKE sworn and examined.

Andrew Burke  
Mr. Roche.—This tenant hold 38 acres 3 rods and 8 perches, at a rent of £19 10s., the valuation being £11 15s.

1. Mr. Roche.—You are the tenant?—Yes, sir.  
2. Under this lease (produced)?—Yes.  
3. How long have you been in possession of the lands of Moanreal?—Since I was born, sir.  
4. How long may that be?—15th October, 1828.  
5. Was your father in possession before you?—Yes, sir, and my grandfather, as often I heard him say, and they were there before the Stacpoole's got it.  
6. Do you recollect what rent your father paid?—£7 I paid myself.

7. When was that?—In the year 1852, after my father's death. I have the receipts.

8. That was the rent at which you came into the holding in 1852, after your father's death?—Yes.

9. Now, when was the first increase of rent put on you after that?—In 1853. I was noticed by Mr. Malon. I have the notice (produced), £9 13s. 4d. was the rent, and there was an abatement given by George Westropp.

10. Notice of October, 1853.

“Take notice, that from and after the 1st November, 1853, your rent will be £9 2s. 11d., being rent and re-charge reserved in your lease, together with £3 4s. 4d. for the triangular field, as agreed on with the Very Rev W. H. Stacpoole, deceased.”

What was the rent before you got this notice?—£7.

11. Then the increase in this was from £7 to £9 2s. 11d. £9 13s. 4d. was in the lease.

12. Was there an old lease?—There was.

13. Where is that old lease?—It has expired since August 1862.

14. There had been an abated rent received before this and then they brought it back to the rent in the lease?—Yes.

15. Judge O'HAGAN.—How do you read that figure, the £?—Mr. Roche.—£9 I read it.

Judge O'HAGAN.—It is not £9, it is either £10 or £10 0s. 11d. I make it.

Mr. Roche.—£10 0s. 11d. was the rent which was reserved in your lease together with £3 4s. 4d. for the triangular field as agreed upon. Let us see any receipt he has.

Witness.—£9 13s. 4d. I have a receipt in my pocket for a year and a half's rent, ten guineas.

16. Judge O'HAGAN.—Do you say your lease was £9 13s. 4d.?—No, sir, there was a lease of one division of it, and a letter of another, £9 13s. 4d., was for the entire of it.

Mr. Atkinson.—There was something put on the triangular field, it was never taken altogether.

17. Mr. Roche.—Show me the first receipt you have after 1852. (Witness produces receipt of 1854).

18. After the lease expired?—I have it here.

19. Now, when was the first increase of rent put on you after the lease expired?—The lease expired in August, 1862, and Mr. Stacpoole said that I would have to pay £18 when I went to the house. He

sent me a messenger on the 28th September, and I went to the house, and he laid out £18. I was grumbling at that, and said that there was a great many acres in it of wild bog that was not worth 1s. He promised me no allowance on any improvements I did, and said I was obliged to abide with it. “You will have to send in a proposal” said he, “and on such a day.” He had served notices to quit on all the townland of Moanreal.

20. Had he served a notice to quit on you?—No, because I had a lease. I came down, and the proposal was filled by a man of Hyatt, named Mortony.

21. And you sent in the proposal?—Yes, to pay £18, and when I came in next day, “There is a mistake in your proposal” said Mr. Stacpoole. I said “It was drawn up by your attorney and by your directions.” “It does not matter” said he, and he took pen and changed it back to the May before the man died. I objected to it. He said it was a general thing with all gentlemen, all landlords.

22. At any rate your recollection is that Mr. Stacpoole made this alteration in the proposal, and brought it back to the May previous?—Yes, sir. I objected to it. “I am bound” said he, “to stand to the proposal you made.” I said no more; he promised me an allowance on any improvements I did.

23. Now we will leave that, was there any increase of rent put on between the time you sent in that proposal and the time of the lease?—There was none.

24. When was that increase put on?—In 1874.

25. Was not that the time you got the lease?—It was, sir.

26. Then it was raised by the lease to £19 10s. 4d. From £18 to £19 10s.

27. Now tell me during the time you had the holding did you make any improvements on it?—I did, sir, and wrote to him about it.

28. In the first place there are about how many acres Irish in the holding?—Twenty-three acres three rods and eighteen perches, that is mentioned in the lease.

29. What sort of land is it?—Spuwy wet land, and more of it hard land, and three or four acres of wild bog not worth one shilling, and in 1872 he promised me an allowance on any improvement I did.

30. When you first knew the holding what improvements did you make on it?—Oh, I cannot say—a good deal of improvements.

31. First did you make any buildings?—I did, sir, a cowhouse and a lusney.

32. And anything else?—A pigsty.

33. When did you build those?—After I got married, it is about twenty-eight years ago. It is not twenty-eight since I built the lusney, about nine or ten.

34. Did you make any other buildings there?—No, but I remember my father.

35. What did he build?—He built the house I live in.

36. Now, we will leave the buildings, did you do

anything else to the holding—I did, sir, I am always drawing sand and topdressing. I reclaimed about four acres of bog.

37. When you got it these were not worth one shilling an acre you say!—Indeed they were not.

38. When did you begin to reclaim them?—I had a small share of them reclaimed about—. I was not long tilling them. I don't think I had half an acre, and I built a wall which you can see in the map.

39. Was the new wall a boundary fence?—It was not, I ran it across the land to cut off the bog, because the bog was not fenced at all.

40. Was that a dry stone wall?—No, but a mud wall.

41. Is that a substantial wall?—It was.

42. Was it necessary?—Oh, I could not reclaim it without it.

43. How much bog did you reclaim altogether?—I think there were about four acres.

44. How did you reclaim it?—To till and measure.

45. Did you drain it?—Oh, of course.

46. Was not the first process draining?—Yes.

47. Did you lease it?—No. It was with rods I closed the drains.

48. How did you effect the reclamation?—To manure, and drain it and till it.

49. Have you all tilled now?—I have part in meadow and part tilled.

50. Did you see Mr. Stacpoole walking the lands in 1874?—Yes, sir, I was speaking to him.

51. When did you first hear about the increase of rent?—A short time after he being on the lands. It was before the 29th September.

52. Who came to you about it?—Michael Cunningham, Maurice Mallins, and several of the tenants were with him.

53. It was quite an event there, I suppose, when Cunningham came to announce an increase of rent?—I don't know what were there.

54. Will you tell the court exactly what Cunningham told you?—He showed me a list, and said I would have to pay such a rent, and I objected and said I would not pay, that Mr. Stacpoole rose it before me and promised me an allowance on any improvements, and I was not able to meet the rent several times, I had to get an allowance and borrow it.

55. Was it true that you had not been able to meet the rent?—It was, and had several times to renew.

56. Did you work industriously and hard?—Yes, and hired boys and horses and a cart to reclaim it.

57. And you swear you were not able to make the rent?—No, and he gave me an allowance of six months time.

58. When did he do that?—The day I was obliged to take a lease, and several times before that.

59. Did Cunningham say anything to you about the lease when he told you you would have to pay the increased rent?—Yes, he told me every tenant would have to take a lease or he would be evicted, the same as Michael Hogan who was served with a notice.

60. What did you say when he told you you would have to pay this increased rent and take a lease?—I asked him did he say, or send word by him, that he would allow me the improvements I had done. He said not. I told him £100 would not save me of the improvements.

61. That is, that they had cost you £100?—Yes, what I had lost during the twelve years.

62. And was that true?—Oh, then, in my opinion, I could not do it at all for £100, but that I had some tillage out of it that I was benefiting by gradually during the twelve years. He did not come on the lands since 1862 until 1874.

63. Did you agree that day to take the lease?—I did not.

64. Well, now, tell me, did he come again to you?—He went away then about nine or ten years, and he returned back and asked me what I would do. He

said Mr. Stacpoole would evict any person that ~~was~~ <sup>had</sup> ~~not~~ <sup>paid</sup> rent.

65. Mr. Atkinson.—Would not what?—Evict any person who would not take a lease. He advised me, as I was not willing to take a lease, to go down to Mr. Stacpoole. I asked him "Was he at home?" He said, "he would be at home on Sunday next; to go down to his own house, and he would go down with me to Mr. Stacpoole's." On the Sunday I got up before daybreak and went down to Cunningham's house, and he gave me a good breakfast, and we went down to Mr. Stacpoole's.

66. Mr. Rock.—On that Sunday he went to Edenvale?—He went there with me, and desired me to stop outside while he would see was Mr. Stacpoole inside, and he went in and said he was, that he was in his bed and was not able to get up that day, and I could not see him—that he had a lump. We went away and walked out. I said, "What will I have to do now?" "Oh, you will have to take a lease," he said, "but your better way is to write to Mr. Stacpoole and he will give you an allowance, and you can mention that I am aware of all the improvements on the holding, and I have no doubt he will recompense you for it, and, take care, if you say that you won't take a lease, he will certainly eject you, as he has done with Hogan."

67. Mr. Atkinson.—As he has done with Hogan?—That he will serve me with notice and evict me.

68. As he has done with Hogan?—Well, as far as the notice to quit.

69. Mr. Rock.—Did Cunningham come to you again about a lease?—He did, afterwards, I wrote to him then.

70. You wrote to him?—To Mr. Stacpoole, and he desired me not to say that I would not take the lease.

71. Judge O'Hanlon.—Have you that letter?

Mr. E. Stacpoole.—I have not, my lord.

Witness—I wrote to Mr. Stacpoole, requesting the allowance for improvements, and he desired me not to say I would not take the lease.

72. You wrote to Mr. Stacpoole, what followed?—For the allowance that he proposed me.

73. Mr. Rock.—For the improvements?—Yes.

74. What else did you mention in the letter?—He desired me to mention that I would take a lease.

75. Who desired you?—Cunningham.

76. Did you mention it?—I did not. "By doing so," said he, "he will allow you in the improvements, I am certain," said he, "and you can mention in the letter that I am aware of the improvements, and I am certain he will allow the improvements." I did not, and I sent him the letter.

77. Did you get any reply?—Never, nor anything else until I got the lease.

78. Well, now, did Cunningham come to you about the lease between the time you wrote to Mr. Stacpoole and the day you went into Ennistymon to pay rent?—Never.

79. Then you heard nothing more about it until you went into Ennistymon?—No, sir; I did not.

80. That was sometime in December you went into Ennistymon?—20th November, I am not sure exactly.

81. Was Cunningham there?—He was.

82. Was it on the same day that the last tenant who was examined here (Patrick Hogan) went in?—It was on the same day we all went in, the next day. I am not sure was it the 20th, but the 20th and the 2nd of June we generally pay rent.

83. Tell his lordship what occurred between you and Cunningham at the office, in Ennistymon, on this 20th November?—He said I would have to sign it or if I did not, I would be ejected. I would not. He asked me "What, will you do, you will have to go down to Mr. Stacpoole."

84. Did you ever see the lease before?—No.

85. Was it ever explained to you by Mr. Stacpoole or Mr. Cullinan?—No, I never knew Mr. Cullinan until the last Quarter Sessions, I never went into his office or his house.

*Andrew  
Buchs.*

Jan 25, 1853.  
Andrew Burke.

86. Did you sign the lease that day?—No, sir, I did not. I went to Edenvale.

87. When did you go to Edenvale?—The Monday following, I think it was on the Saturday I was in Enniscymon.

88. Did you see Mr. Stacpoole at Edenvale?—Yes, I did in the evening. I went in the morning, and he was just gone out before me hunting. Considine wanted me to sign the lease and I would not, I waited until he came back.

89. Did you see anyone in the morning when you went in there?—I did, Considine, the clerk.

90. Had you any conversation with Considine about the lease?—I had.

91. Did he produce it to you?—He did.

92. What did he say to you about it?—He said I would have to sign it.

93. Now, you saw Mr. Stacpoole on the evening of that day?—Yes, sir, I went back to Michael Cunningham and remained there, until Mr. Stacpoole was hunting through the states, and in the evening I met him.

94. Will you tell his lordship what occurred between you and Mr. Stacpoole, and what you said to him and what he said to you?—When I came in then, he said "There is a mistake in your lease, a small mistake, go on into the office," he said "and I will be in immediately after you." He went in then and he asked Considine how much was that mistake, and he made it up, and asked me would I sign the lease. I asked him then for the improvements, and that I had written to him, and he did not answer the letter. And then they made up the mistake, and because Mr. Callinan put £21 10s. in it in place of £19 10s. Cunningham said, and even I made that objection, and Mr. Stacpoole took the pen, and then Considine and Mr. Stacpoole marked on the outside of the lease £19 10s. (*Lease produced*).

95. Well now, what did Mr. Stacpoole say to you about the lease, tell the whole of the conversation that occurred between you and Mr. Stacpoole that day?—I told him I could not sign it, if I signed it I could not pay the rent, and I could not meet even the old rent. "You will have to sign it," he said. He handed it over to Considine after marking it with pencil on the back. "Give him that," said he. Considine asked me to sign it. "You will have to sign it." There was no more about it.

96. You told him you could not pay the old rent?—That I was not able to pay the whole rent, which he was aware of.

97. That you would not sign it?—I did not say I would not sign, that I could not pay the rent. He said I would have to sign it.

98. Did you sign the lease then?—I did, in his presence.

99. Judge O'HANAN.—This was in the office in Edenvale?—Yes.

100. Mr. Books.—Mr. Stacpoole was there and Considine was there?—He was.

101. Now £19 10s. is the rent in that lease?—Yes.

102. Was it true what you stated to Mr. Stacpoole you could not meet the old rent?—Indeed it was. Even last October twelve months I was not able to pay, though promising the 1st of August, the rent I had a right to pay on the 5th of June, until my sons earned it drumming. And I am equally ejected now, and there is the workhouse before me, for non-payment of rent since the second last Quarter Sessions. I came and asked him for relief and he would not give me any.

Cross-examined.

103. Mr. Atherton.—Now, you have a distinct recollection of all that occurred, you recollect distinctly all that occurred?—Well, I recollect.

104. What you have sworn to, and you recollect Mr. Stacpoole taking and changing the proposal?—I do.

105. There is no doubt about that?—No.

106. Did you read it after he had changed it?—Indeed I did not.

107. But you saw him change it in 1852?—It is easily remedied," said he.

108. And what did he do?—He put it back when he charged me from.

109. And you saw him change the proposal?—I saw him writing on it.

110. It had been filled in for May?—It had not, but it had been filled in for November.

111. And he changed it then and there?—I saw him writing.

112. And you did not object to it?—I did, and objected to it when I came to pay rent, and I objected to pay rent and went out of the office, and then returned back.

113. Is that your name and handwriting (produced) I—I think it is.

114. Is it your name and handwriting?—It is.

115. Now turn it and find the erasures and the changes?—Wherever the change was.

116. Where is the change you saw him make?—With a pencil.

117. (*Reads proposal*).—Probably you think that is a forgery?—I do not, but he changed it and charged me. I have the receipts *etc.*

118. Now you were a man of Cunningham?—Undoubtedly.

119. He brought you to his house and gave you your breakfast?—Yes.

120. And he told you when you wanted the allowance you ought to go to Mr. Stacpoole, did he not?—Yes, he did.

121. And he told you to tell Mr. Stacpoole that he had seen all the improvements, although he had not seen any of them at all?—He had often.

122. And he advised you the best thing for you to do?—Yes.

123. And he advised you to state in the letter that you would take out a lease?—Yes.

124. On your oath was Cunningham your friend, threatening you or advising you?—I am not saying whether or not.

125. Do you know what the meaning of a threat is?—He threatened me when he said I would be served with a notice to quit the same as Hogan.

126. Was it friendly advice, upon your oath, did you understand it to be friendly advice from your friend Cunningham to yourself?—Very likely it was, and he was in dread may be that I would be evicted.

127. He brought you down to Mr. Stacpoole?—Yes, he desired me to go down on the Sunday following.

128. Did he not go with you?—He did from his house.

129. And he went in and Mr. Stacpoole was not to be seen?—I don't know, whether he saw him or not, at all events I remained outside.

130. Did you tell Mr. Stacpoole at all that Cunningham had threatened you?—I did not.

131. Did you ask Mr. Stacpoole was he going to evict you?—I did not, but as I am telling you.

132. Did he ever in his life say he would evict you?—He did, the day he sent me a letter by John Callinan, that if I did not pay rent on the appointed day, I would be evicted.

133. How much rent do you owe by the way?—A year and a half.

134. Did not this gentleman offer to take a half year's rent from you the other day?—I was not able to give it to him.

135. And you refused to pay it?—I came to him and asked him for an indulgence and he would not give it.

136. He got a decree against you for a year and a half's rent?—No, only a year's rent.

137. But there is another half due now, and he offered to take a half year's rent?—I heard Cunningham came and offered to take it, but I was not there.

138. Are you in good friends with Cunningham still?—Yes, we never had a word.

139. And he is a neighbour of yours?—Oh then he is not, he lives 13 or 14 miles away. I live at a place called Meuronal, 11 miles from Ennis.

140. You wanted the allowance for improvements?—Yes

141. Did you ask that from Mr. Stacpoole when you came in to sign the lease?—I did and I mentioned it in a letter.

142. Was there anything in the letter about your refusing to take a lease?—No, sir.

143. Did you make any objection in the letter about the house?—No.

144. Did you make any objection about the increase of rent, 30s.—No, sir, I did not speak about the lease at all.

145. And you went there and took the lease?—I did, sir, but I did not sign the lease in Banistynon.

146. What objection did you make?—I told him I would not be able to pay the rent.

147. That is a rise of 30s. since 1852?—Yes, I was not able to pay it.

148. Now, where did you get this lease?—In 1874.

149. Did you read it over?—Indeed then, I did not, until I got it.

150. When?—After releasing it, whatever time I had to pay for it.

151. Are you sure you were not in Mr. Cullinan's?—Indeed I am sure I was not.

152. Had you seen other leases that had been made on the estate?—I hadn't. It was the Monday following I went in.

153. Was there anybody by who heard this conversation between you and Cunningham?—Is it the first day he came?

154. Yes?—Oh, there were several.

155. Who were they?—I am not sure, there were a good many of them.

156. It is very strange you know that the only man you remember is dead, the first man you named. You named one man as being there, did you not?—Yes.

157. He is dead, is he not?—He is.

158. Can you give me the name of any living man?—I am sure there were a number of them about.

159. You remember the dead man then?—I had very good reason to. He was the bog ranger and he would

not give me a sod of turf to burn lime. He laid 10s. in my son's name, that never eat a sod, and I went down and made a complaint in the presence of Mr. Stacpoole and his lady, and he sent me word to go and pay them 10s.

160. Is it not queer when you were speaking about the improvements it never occurred to you to tell that your house was slated for you since you got the lease?—It was not slated, because I applied to him for timber and he gave me a ton of slate, Michael Cunningham got it for me.

161. Did he not give you timber for the dwelling-house?—Never, for the dwelling-house.

162. Yes?—Is it for the cabin, the cow-house; no, sir, he did not because I had that built before he came in.

163. Did you get timber or slate for any other house?—I believe I get slate from Mr. Mahon twenty-eight years ago.

164. That was the time you were building the cow house?—Yes.

165. What did you get then?—A carload of timber and nothing else.

166. I suppose you were born in the dwelling-house?—Oh no, I was not, I remember it to have been built.

167. This old lease you had, you had only portion of the land under that?—Yes, and there was a letter of the remainder. The lease was made in 1823.

168. Have you got it here?—No, sir, but I have the process, I got from Mr. Mahon for a year and a half rent, ten guineas. There was an abatement given by Mr. Mahon from £7 13s. 4d. to £7, and it was the £7 I was paying until I got the notice and Mr. Mahon raised it on me.

169. Put you back to the old rent?—It was more than the old rent.

170. Were those open drains?—No, sir, I close the chief part except one.

171. With what?—Sods, there was one a very wide drain. I could not close.

*John Flanagan's case heard.*

*John Looney's case heard.*

*Thomas Hayes's case heard.*

*Mary O'Leary's case heard.*

#### JAMES McCARTHY, v. MISS STACPOOLE.

PATRICK McCARTHY, sworn and examined.

172. Mr. Roche.—You are the son of James McCarthy?—I am, sir.

173. How much of it has been reclaimed?—About half of it.

174. Did your father reclaim any of it?—He did.

175. How much did your father reclaim?

176. Mr. Ashe.—Are you speaking of what you know yourself or only hearsay?—Of what I know myself.

177. Mr. Roche.—How much did your father reclaim?—I suppose five or six acres.

178. You were working on it, reclaiming it?—I was.

179. When you were a boy, and all the time since?—Yes.

180. Was there anybody else helping you to work on it?—There were two more boys.

181. Brothers of yours?—Yes.

182. Did you drain it?—Yes.

183. Did you lime it?—We did.

184. Did you do that more than one year?—We did, sir.

185. Could any crop be raised off the part that was reclaimed before you commenced to work on it?—Well it could—not all—some of it.

186. Can a crop be grown there now?—It can.

187. Now, do you recollect the time when the increase of rent was spoken of?—I do, sir. There were outbreaks.

188. Oh, there were some houses built there?—Yes.

Jan. 26, 1875, 1876.

Andrew  
Berke.

See M. STANISLAWSKI  
Patrick  
McCarthy.

201. When were the houses built?—In the year 1870, there was a cowhouse and barn built in it.  
 202. By your father?—Yes.  
 203. How many cows was the cowhouse built for?—Six cows.  
 204. And the barn, how large is it?—It was about twelve feet square inside.  
 205. Did the landlord give any assistance at all to your father to build these?—Not a halfpenny.  
 206. Did your father make any other buildings on the place?—He did, sir.  
 207. What else?—There was a stable built in it, too.  
 208. Anything else?—There was a piggery built there.  
 209. And all those were built by your father?—Yes.  
 210. Now, do you recollect when Cunningham came to your father about the increase of rent?—I was sir.  
 211. Where was it?—It was within the house.  
 212. In your father's house?—Yes.  
 213. Was there anyone present besides you and your father?—There was. My mother and some more of them, I believe, were present, too. I was present.  
 214. What did Cunningham say to your father?—He showed him the scroll he had, and the names of all the tenants, and the increase of rent to be put on them; his own name was in it, and the increase.  
 215. Did he tell you the increase?—He did.  
 216. How much?—To £14.  
 217. From £10 to £14?—Yes.  
 218. What else did he say besides the increase of rent?—He told them they should pay that increase and take losses.  
 219. What did your father say when he said that?—He said it was too much and he could not pay it.  
 220. Did he say anything more to Cunningham—did Cunningham make any reply to that?—What did Cunningham say?—He told me that he should pay it.  
 221. That he should pay the rent?—Yes; that it was not his own fault to be putting it on.  
 222. Did he say whose fault it was?—He did.  
 223. Well, did he say anything more to your father?—I did not hear him say anything more.  
 224. Did he go more than once to your father about the lease?—I was talking to him afterwards in Ennistymon myself.  
 225. What did he say to you in Ennis?—He told me it was no use, that they should take it at that rate, that they should sign the leases.  
 226. Cunningham said that to you?—Yes. I was talking to him when my business brought me to Ennis.  
 227. Did you meet him more than once in Ennis?—I don't think I did.  
 \*228. Did Cunningham come again to your father's house about the lease when you were present at any time before December?—Well, I don't remember he did come to the house.  
 \*229. Were you in Ennistymon on the day your father was paying rent?—I was not there the day he signed the lease at all.  
 230. Is there anyone here who was in Ennistymon when he signed the lease?—I believe the rest of the tenants were in there the same day.  
 231. But is there anyone here that heard the conversation between your father and Cunningham on the day he signed the lease?—I don't know; I was not there. He and the rest of the tenants were there.

242. You have been working this farm for your father, you said you had two brothers, I think?—I have.  
 243. Have they been working it also for him?—They have, and working hard.  
 244. Have you been able to make the rent out of the place?—Well, then, indeed, it is badly. It is by working very hard we are able to scrape it up.  
 245. You are just barely able to pay it?—Yes.

Cross-examined.

246. Mr. Atkinson.—You have the grass of six cows there, have you not?—We don't have six cows at it.  
 247. Why did you build the house for six if you don't have them?—It is a house that they do not fit both ends; we only keep five.  
 248. How many milch cows have you?—Five.  
 249. How many young stock?—None, sir, unless we keep calves for a while, and we have to buy the dry hay.  
 250. And you have the grass of five milch cows for £14 a year?—Yes.  
 251. And have you a horse?—We have.  
 252. That eats as much as three cows?—We have to buy dry hay.  
 253. How much did you buy last year?—Four pounds worth.  
 254. How much the year before?—I don't remember, I bought £8 of it one year.  
 255. How long ago is that?—Two or three years ago.  
 256. Have you any sheep?—No, sir.  
 257. Or young stock of any kind?—We have a couple of calves.  
 258. And you rear the grass of five cows and a horse, with the addition of £4 one year, and £3 another long ago, for hay is not worth £14 a year in Clare!—We have a great deal of improvements done.  
 259. How much have you in tillage?—We have, I suppose, about an acre or an acre and a half in tillage, that is wild bog that is reclaimed.  
 260. Had you any meadow?—We had, sir.  
 261. How much meadowing?—Well, really I don't know.  
 262. Four acres or five acres in addition. Now, was this cut-away bog you reclaimed?—Some of it was cut-away bog and more wild mountain.  
 263. And you cut the turf off it?—Yes, and drained and reclaimed it.  
 264. Wild sed drainage?—No, hot stones.  
 265. And you have been working it, and taking the crop off it for many years?—A long time, I suppose. There is a great deal of wild bog the tenants are cutting turf on.  
 266. Judge O'HAGAN.—That is not in the lease at all!—That is not in the lease at all.  
 267. Mr. Roche.—Were you ever at one of those rent paying meetings in Ennistymon?—I was sir, and often paid rent myself.  
 268. How many tenants were let into the room where the clerk was and Mr. Cunningham together?—Mr. Atkinson objected.  
 269. Mr. Roche.—You have paid the rent in Ennistymon?—I have.  
 270. To Mr. Cunningham and Considine?—Yes, sir.  
 271. When did you pay that rent; did you pay it since the lease?—I did.  
 272. And did you pay it before the lease?—I don't know.

\* Numbers wrong in "Notes."

## JOHN HOGAN (Drinagh) v. MISS STACPOOLE.

Mrs. MARY HOGAN sworn and examined.

JAN. 26, 1881.

Mrs. Mary

Hogan.

273. Mr. Roche.—You are the wife of John Hogan, of Drinagh?—Yes.

274. Now, how long have you been married?—About thirty years.

275. That is sometime about the year 1850?—I suppose so.

276. Did you hear that Mr. Stacpoole came into the management of the property about that time?—He did not come that time, because we were in it before him.

277. Why is your husband not able to come here?—He being a lunatic, and paralysed.

278. You say you were married before Mr. Stacpoole came into the management of the estate?—I was.

279. Do you know what rent your husband was paying when you were married?—I do £32 10s. was the first rent we paid for it.

280. Now, how soon after you were married was the rent increased?—I cannot say the day for I have not the lease, but it was when the whole of them got it.

281. Might it have been two or three years after you married?—It was more than that, the date they all have for it, it was raised on the whole of us at the same time, I got a notice to quit, said Mr. Shannon has that and all the old receipts.

282. What was the rent raised to?—From £32 10s. to £36, and a notice to quit served, and then a proposal was sent to me and I signed it, I was told to do it at such a rent, and my husband and me went with Michael Cunningham, and he brought us into Mr. Hynes' office, and pointed out a certain clerk to us that we had to go to, and we paid £d. and 2s. for the paper, and I showed it to a friend of mine. He said he never seen such devilment as the proposal whatever it was.

283. That is the proposal of 5th May, 1862. Did you continue to pay that rent down to the time of the lease?—Sure I did, sometimes having it, and sometimes having to get it.

284. Were you present when Cunningham came to see your husband in 1874 before the lease was taken out?—I will tell you how it was. I was there and answered him, without going to more rounds about it.

285. What was said by Cunningham, and what did your husband say?—He came to my husband, and he brought a list with him, and my husband told me he read out of the list to tell him he should pay 18s. an acre.

286. Mr. Athlone.—Did you hear this yourself?—I did, when I went to him again.

287. When?—I went to Cunningham in a few minutes.

288. Judge O'HARA.—You must tell only what Cunningham said to you?—You know he came to me and told me, and then I went with the husband. The husband came into me with the freight and told me what Cunningham said, and we should take a lease at 18s. an acre or get a notice to quit before November night.

289. Mr. Athlone.—Was Cunningham there?—He was in the next street at the time. I went there, knowing that my husband was started at the time, since he saw his brother turned out of his place a few months before. Then I went with him to the next neighbouring woman's street, and there herself and her husband was before us, and in the same freight said Cunningham there. I asked him "what kind of news was this, was it true that I should pay 18s. for my land?" He said "Yes or get a notice to quit before November night." He said yes. I said "What will we be able to do at all, we cannot pay it?" He said, "we should take it and that Mr. Stacpoole would have no tenant without it," to both my husband and me in the street. He came to me another day in the street of Bania.

290. Judge O'HARA.—Who did?—Cunningham.

291. Mr. Roche.—Before you go to that, did that finish the conversation on the first day?—No. "What will we do at all," said I, when he said, "we should take a lease at that, and that he would have no tenant without it." I said, "if Mr. Stacpoole knew how we were wronged or seen the land he would not do so." He said "I would not see Mr. Stacpoole." I said, "I should see him before we took a lease." He said, "we could not, that he would not be at home for a month." That finished it.

292. When was the next day?—I cannot tell you, but he told me we would get the notice to quit before November night. It was nine or ten days before the day we call Michaelmas day.

293. How long was the conversation in Bania after you saw him at home?—I cannot say really. I went in on different occasions to Edenvale and I never could find Mr. Stacpoole.

294. After you met Cunningham at home, did you go to Edenvale, to try and see Mr. Stacpoole?—I did, four or five times and I never seen him all along. And when I would go home myself and my little boys travelling I would hear that he would be at home, and I would go again and I would be told at the gate he would be asleep, and at another time that he would not be in it, and I would hear in Bania that he was there all the time. I went into Mr. Cullinan's office to complain of my case and how I was treated.

295. How far is it from your home to Edenvale?—I hear Ennis is ten miles from us and whatever Edenvale is from that.

296. You made this journey four or five times?—I am sure oftener, but I don't want to pass that, and I was going along up to the day Mr. Cullinan told me he was filling a lease.

297. You went also to Mr. Cullinan?—I did.

298. What did you say to Mr. Cullinan?—Oh, telling how I was going to be treated and how Cunningham came to me telling me I should take a lease at 18s. an acre on my land and I holding a great lot of bed acres up to fifty acres, and if I held other acres as good as the remaining sixteen acres 18s. would be my rent. And I thought if I could see Mr. Stacpoole he would not charge me that and I used to be telling that to Mr. Cullinan until I used to be bothering him, and indeed I did bother him until he said "Well now, Mrs. Hogan, there is no use in your telling me that."

299. Tell that again?—When I would have my case complained to him and telling him all the bad acres I hold and if Mr. Stacpoole knew or looked into it or travelled it that I am sure he would not do the like to me. And when I would have that said Mr. Cullinan would say "well Mrs. Hogan you are talking a great deal when it is no use, I won't tell Mr. Stacpoole a word of that." I said "well, I am pleasing myself and I cannot find him." I repeated that so often in the office and I took other courses too but what was the use of going to other people.

300. I want you to come to where you met Cunningham in Bania?—Oh, sure, telling him, I never could pay the rent that was laid on me.

301. You told his lordship you met him in Bania?—Yes, and I told him I never could pay the rent he was leaving on, that it was too much before. I did not know that there was any consent given to the lease but I was still in dread the notice to quit would be filled before the month and that was the reason I was going to Edenvale, and I used to be telling it to Mr. Cullinan. I did not know the lease would be filling until I gave consent, until the day I went into Mr. Cullinan's office and he told me he was filling it. I asked him who gave consent and he told me it was Cunningham.

302. Now Mr. Cullinan told you he was filling the lease for you?—He did and spoke sulky and he writing. I don't blame him indeed, I was going to him too often.

303. Now did you see Cunningham or Mr. Stac-

JAN 22, 1912.

Mrs. Mary Hogan.

Poole before the time the lease was signed!—No, I could not see him. Sure I went out journeys to Edenvale and would not be allowed to see him on any account, but I would know he was there. I used to be asking Mr. Gillissane and he would not tell me whether he was in it or not, and would not tell what I was complaining.

304. Were you with your husband in Ennistymon, to pay the rent?—Yes, I used to go with him and hand the money to him and I saw Considine smiling when he saw he was able to make money to meet it.

305. Tell us what occurred about the signing of the lease?—When we went in the evening that the rent used to be usually paid we thought Mr. Steeples might come, and then he did not come that day to us but the clerk and Michael Cunningham, and when we went in to pay the rent he would not take the rent until the lease would be signed. We asked have to read it and he would not give it. We walked out in the town until very late in the evening and we were consulting with our friends, and my father advised me and told me to go back, that there was no knowing what would become of me on account of himself and a brother of mine having a law suit, it was useless for me to be making a battle about signing it. We went back then and signed the leases, and then paid the rent and left it so. Then only they sent it to us they would have it since if they kept it for us to go for it.

306. Was there anyone in the room when you signed the lease except yourself and your husband and Cunningham and Considine?—Well, I don't doubt that there were. There was another neighbouring man went to do the same, and it was not taken from either of us in the morning.

307. In the morning when the rent was refused, it was refused from another neighbour?—It was.

308. Who was the neighbour?—John Guthrie, and we came back in the evening and signed it.

309. Mr. Lorren.—What rent was refused?—£42, the old rent I think, I cannot be sure of that for I was not up to the points of the thing at that time.

310. Well, now, you have been married these thirty years?—I think it is thirty years next St. Steven's.

311. And you tell us that a great part of the land was bad?—Born whatever money I would have I could not reclaim about forty acres of the kind of land that is in it, but I reclaimed a great lot entirely.

312. I want to come to what you reclaimed?—The tenants can prove there was no greater work done by any poor woman and her sons—anyone you like to speak upon, I don't care.

313. When did you commence reclaiming it, you and your husband?—I commenced reclaiming since I married because the red soil would not yield potatoes at that time. We commenced tilling potatoes because we had no servants, but that was not long, the little boys grew up and they worked hard as soon as they could hold a spade; and I used to be working up to my knees in the drains when it was raised to £50. We reclaimed a great deal. And another garden that I had tilled, he sent Mr. Midward up and I did not know who that gentleman was; and I ran ankle deep through the wet land thinking he was some man who would look at the place for me.

314. What we want to know is what you and your sons did to the place, you have described how you and your sons drained the land; how many acres did you reclaim?—I cannot say, there was a great deal done.

315. I want you to sell his lordship how many acres you have reclaimed that way?—I cannot say for fear I should tell a lie, but I have two or three large fields—whatever number they contain—and three large meadows drained besides that I did not tell—drained and topdressed.

316. Do you say you drained completely three large fields?—I did indeed.

317. Are there five acres in these fields?—I think there ought. I don't know anything about acres as I did not see it measured or hear how much; but there

is three large fields that we tilled and reclaimed and drained in it, and we drained two or three meadows that were very wet, since the little boys grew up, and built a new limekiln and drawing lime year after year.

318. Was there any limestone on the place?—Not at all.

319. Where is the limestone?—It is in the same parish.

320. How far away from the holding?—I don't know myself—three or four miles.

321. And you had to bring the limestone four miles to rebuild this holding?—Yes.

322. What buildings are there on the place?—We did not make any new buildings but to rebuild one that fell, that was in it before and fell, and to ring a great deal of stones because the stones that were in them were very bad. In this very year I had the trouble of rebuilding one.

323. Were these necessary for you?—Oh, I could not do without them.

324. Did you build any of those before you got the lease?—It was before I got the lease that I built the slatted houses.

325. And you say you could not do without them—I could not bat badly.

326. What use do you make of the slatted houses now?—The horse do be in it and the ass, it is under the one roof, and I have nothing in it this long time but pigs, if I had cows they would be in it.

327. Did you do anything else, Mrs. Hogan, you and your husband and children to the holding?—By day by how many children have you?—I have four men, the oldest boy when everything else failed him had to go to Australia two years this coming summer.

328. When you had them all working at the place were you able to make anything above the rent out of it?—I wasn't, but for the way we lived and worked that would not be done.

#### Cross-examined.

329. Mr. Atkinson.—You said you were not able to make anything above the rent of it, is that true?—I think it is true.

330. Then where did you get the £300 you gave your daughter a short time ago?—That did not occur.

331. How much did you give her?—I never gave her more than £100 I got from my sister in Ennistymon.

332. Did more of your daughters get married than the one?—No, only one.

333. Who is this woman that gave you the £400?—My sister, a shopkeeper.

334. She lent it to you?—She did.

335. Did you pay her?—I did not because I could not pay her, and I have never borrowed at prepayment her.

336. How many cows' grass have you there?—It would feed twelve, and if I did not hand feed them with that they would be stripped every year.

337. How much tillage?—I think I have two acres this year and I am bringing them from Ennis for six months.

338. How much meadow?—I don't know—it is very light meadow.

339. You are only charged 18s an acre for it?—Some of it is not worth 5s an acre.

340. All these interviews you had with Mr. Gillissane, were they in reference to this lease at all?—They were in reference to the lease what else.

341. Bad as the land was were you wanting to get hold of Michael Hogan's farm when he was turned out?—A few years before I thought I would get permission for one of my little boys.

342. When was he turned out?—It was before the lease.

343. On your oath was it not to try and get Mr. Gillissane to get Michael Hogan's holding for you you came there again and again?—Trying to get that I went the first time over I was in his office.

344. Was it about Michael's holding you came to

Mr Cullinan every time you came there!—No, never got care. The first time I ever went in we were not threatened with a lease at all or the notice to quit, and he knows that right well.

345. But after this interview about the lease did you get Michael's holding?—No, nor never asked it again when he told me Mr. Stacpoole would give money for it. The answer I made him was, it was not worth money and I did not ask for it again.

346. And do you know Mr. Stacpoole did get money for it?—Yes.

347. Was it better than yours?—It was a small holding.

348. What was the rent of it?—I don't really know.

349. He had two holdings had he not?—He had but the holding near myself.

350. It was the same kind of land as yours?—It was the same as the next holding of mine. I counted about sixteen acres of my land to be now about as good as that.

351. Did you ever tell Mr. Cullinan the way Creagh had threatened you about the notices to quit?—I did and to Mrs. Cullinan.

352. And you will stick to it though Mr. Cullinan would stay it on his oath?—I will stick to it, I suppose he will be believed sooner than I, I come in here to tell the truth.

353. Did you ever tell Mr. Cullinan you objected to take the lease at all?—I did, and every time I went in, but that he told me—Cunningham told me there should be a lease.

354. Did Mr. Cullinan tell you?—Did not Mr. Cullinan tell me I should pay the rise on the lease.

355. Did he ever say a word about your being turned out?—Mr. Cullinan did not indeed.

356. Did you ever ask Mr. Cullinan to see Mr. Stacpoole in reference to this lease?—I did not, but I used to ask him could I see him myself; a friend took me to Mr. Cullinan's father—

357. Did Mr. Cullinan tell you it was useless applying to Mr. Stacpoole for Michael's holding?—He told me the first day I went there, myself and another friend, he told me that there was a good chance.

358. Of Michael's holding?—Yes, that Mr. Stacpoole was going to give it to the adjoining tenants.

359. Was it not about Michael's holding you wanted to see Mr. Stacpoole?—Oh, not at all, the time I wanted to see Mr. Stacpoole. The lease was not threatened on me at all at the time I went to Edenvale.

360. What did you go for?—I went to see would I get this holding of Michael Hogan's. It was three months before, it was sometime early in summer that I went to Mr. Cullinan's office to see did he know could I get this place, because my husband's brother wanted me to see would he be left in possession; and then, in the middle of harvest, Cunningham came to threaten us about the lease.

361. How often did you go to Edenvale before Cunningham ever threatened you about the lease?—I never did.

362. How often did you go before Cunningham ever said one word to you about the lease?—To Edenvale, is it?

363. Yes!—What did I want there.

364. How often did you go?—I did not go there at all until the lease was threatened on me; to go to Mr. Cullinan to see would Mr. Stacpoole give it.

365. Give the lease!—Oh, no, Michael's farm.

366. Perhaps you never went to Mr. Cullinan's about the lease at all?—I used. I went about this bit of land, and that brought me first into his office.

367. Did it ever occur to you to write to Mr. Stacpoole?—I have often about statements in the lease.

368. You can write?—I cannot.

369. Your daughters can write?—No, my son.

370. Did it ever occur to you to write to Mr. Stacpoole about the lease you say Cunningham was foaming on you?—Never, but I was going myself. Where was the use, sure he would not answer any letter.

371. When did your husband get paralysed, because everybody that can give any evidence is always paralysed?—I will engage he did not go before him to pay any rents since the lease.

372. Was he working yesterday?—It is long since he worked a stroke.

373. How long is it since he was in Ennis?—I cannot tell you, nor at Mass.

374. Has his son seen about him?—He has not.

375. Do you go into Ennis every Saturday?—I do not. Whenever I have anything to do making any money I go there.

376. Did you ever see Mr. Stacpoole there?—I suppose I did.

377. While this lease was going on?—Oh, no, nor a sight of him in any place, if I did I could complain.

378. Was any person by that heard Cunningham say to you, as you swore, that you would get a notice to quit next November?—There was, in Dillon's street, where I was talking to him, Dillon came out, and I did not see him before for a long time.

379. Did Dillon hear it?—Dillon did, for he would understand English, and the wife would not.

380. Is Dillon here?—No, that man is dead since the same month. He even came up to the house the same evening, he was so much troubled about it.

381. There is not a person that heard that alive, at all events, you have no witnesses here?—No.

382. Have you anybody that measured these improvements or drains, or can give any evidence about them at all?—Sure, I did not know I would want it.

383. Those old houses you put a roof on, the house that was there fell down?—Yes, I built it up, and drew a great deal of stones to build it. My eldest son used to write for an abatement to Mr. Stacpoole, and when he did not get it, he had to go to Australia.

384. Since Mr. Stacpoole came in, was there ever a notice served on you?—Yes, and two.

385. When?—Did I not tell you the one, and another to take the bag off us at the time of the first rise.

386. Was it Mr. Mahon did that or Mr. Stacpoole?—No, but Mr. Stacpoole.

387. Are you sure of that?—I am.

388. When was it, was it before that was signed?—The lease?

389. No, but the proposal?—I am not sure whether the proposal for the rise of rent was before or after that.

The Court then adjourned.

Am. 26, 27, 28, 1888  
Mrs Mary  
Hogan

Jan 27, 1882.

FRIDAY, JANUARY 27th, 1882.

The Court sat at half-past ten o'clock, and resumed the hearing of the cases.

## RICHARD STAPPOLE, sworn and examined.

409. Mr. Atkinson.—Have you your book? Mr. Stappole; just turn to Andrew Burke. When you came into the agency what rent was Burke paying?—He had two holdings, I think. The acre returned to me to 1st November, 1861, was £7 1s. 4d., that was a year's rent.

410. Of the two holdings?—Wait one moment until I see. There was a second holding, 3a. 0s. 14d., the rent was £2 15s. 6d., a yearly tenancy.

411. Then, those both were combined together, and held under that accepted proposal that has been already proved?—Yes, I have a note here letting the whole at £18.

412. Judge O'HAGAN.—What was the aggregate of the two rents before the proposal?—£7 1s. 4d. and £2 15s. 6d., and then I have a note here that the two were put together in 1862, under the proposal.

413. Mr. Atkinson.—Was the £7 holding held under an old lease?—£7 1s. 4d. was held under a lease dated 22nd October, 1823, and I have a note here "for the late of old John Walsh."

414. Do you remember whether any notice to quit was served upon him before that proposal?—I have no note of it here, I cannot tell now.

415. Now, you went over this holding with the others on the estate, in 1874?—Yes.

416. And you sent that list, as we have heard, to Cunningham with his name upon it?—Yes.

417. Have you got that list?—I have not.

418. I believe Mr. O'Callaghan swear yesterday it was given to him to make up the leases?

Mr. O'Callaghan.—It was lost, it was a memorandum on the back of an envelope, a scrap of paper only.

419. Now, do you remember Burke coming to see you?—I do not. I heard him saying that yesterday but I have no recollection of it.

420. What was the rent reserved in the lease?—The rent reserved in the lease is £19 10s.

411. What was the rent under the proposal?—£18.

412. When he came to sign the lease, it was ascertained the wrong amount was put in for the rent, and that was corrected?—Yes.

413. £19 10s. is the sum reserved, did he make any complaint to you at any interview of having been threatened by Cunningham to sign the lease?—Never, anything of the kind.

414. Did he remonstrate against signing the lease?—Not to me.

415. Did he make any objection to sign it?—No.

416. Did he speak about any allowances you had promised him for improvements, that you can remember?—No.

417. Had you any other interview with him but this?—I don't recollect.

418. Did you ever say anything to him about serving him with a notice to quit in reference to this lease, or evicting him?—Certainly not.

419. If such a thing was said, were you aware of it?—No, never heard of it.

420. And if it was used, do you adopt it?—No, I did not care whether he took out a lease or not, it was nothing to me what I wanted was the increased rent, that was all.

421. Judge O'HAGAN.—I suppose all the tenants in the list submitted to the increase of rent?—All submitted to the increase of rent.

422. Mr. LORRY.—And took leases?—At the time they appeared to be very anxious to get leases; they grumbled of course at the increases of rent.

423. Mr. Atkinson.—It was the increase of rent they objected to and not the leases, as far as you can judge?—As far as I can judge.

424. Did this man express any anxiety to get a lease?—Well, I don't recollect him in particular.

425. Did he say anything against taking it?—No to me.

426. You were not by when the lease was signed?—I think not.

427. Now, the next one I think that is open is McCarthy. Had you any interview with McCarthy in reference to this?—I think not.

428. Did you give any directions to Cunningham to threaten him with eviction or anything of the kind?—Certainly not.

429. If he had done so were you aware of it?—I was not aware of it.

430. When did you first hear it said that he had threatened him with notice to quit?—I think it was in court here.

431. For the first time?—For the first time.

432. And if he did say it, do you adopt it?—Certainly not.

433. You have already answered what his business was. Did this man ever make any remonstrance to you about taking the lease?—No.

434. What was his rent when you came in first?—£7 10s.

435. Had he more than one holding?—I think not. I find his acreage here is 16a. 0s. 10d., and rent £10 now.

436. Mr. LETTERS.—What was it in 1862?—It was raised to £19.

437. Judge O'HAGAN.—Before 1862 it was?—£7 10s.

438. Mr. Atkinson.—Was the old holding under a lease?—No, sixteen acres at about 18s. an acre.

439. When you were going over it and making that valuation did you consider that a fair value?—I did.

440. And that applies to the other holdings as well as that?—Yes.

441. The next is John Hogan?—The rent is £51, John Hogan, of Drinagh.

442. What was his rent when you became agent?—£30.

443. Was that for the entire holding he has now?—It would appear so.

444. Did he hold under lease?—No.

445. That was raised in 1862, under a proposal?—Raised to £43.

446. Do you know whether a notice to quit was served upon him?—I have no note of it here; the only observation I have in my book is that I consider the land too cheap. I made that remark when I walked the lands for the first time.

447. Judge O'HAGAN.—Then £43. The present rent is £51?—£51 is 11d.

448. Mr. Atkinson.—Did you walk the land when you were appointed agent?—Yes.

449. Then it was raised?—It was raised to £51 is 11d.

450. And continued so until the taking of this lease?—Until the taking of this lease.

451. Had you any interview with Hogan or his wife in reference to taking of the lease?—I had not.

452. Do you remember this woman coming to Edenvale?—Not in particular, so many of these people came to me, and it is so long ago.

453. At that time a man of the name of Michael Hogan had been evicted?—A man of the name of Sheehan, a creditor, got possession of his place, and I took proceedings to eject him. I think it was in process of eviction when Sheehan got it.

454. It had nothing whatever to do with the taking of the lease?—No.

JAN. 21, 1875.  
Richard  
Staplefield.

455. Did Hogan or his wife make application to you about that time to get this farm—I am aware they were anxious to get it.

456. Can you charge your memory with their coming to you and making application of that time to get it—I cannot.

457. Did you direct Cunningham to tell them they would be evicted if they did not take the lease?—No.

458. If he had done so were you aware of it?—No.

459. Did you ever hear it until you heard it here?—No.

460. If he did it, do you adopt it?—No.

461. I ought to have asked you in reference to the first case—the witness said that when he went to execute the lease, and the correction was made in the lease, you said he should take the lease—do you recollect saying that?—I do not.

462. He went to Edenvale to you, and the correction was made in the tent there?—Yes.

463. Did you say to him there was a mistake?—I don't recollect it, but I certainly never told him he should take a lease. I did not care whether he had a lease or not.

#### Cross-examined.

464. Mr. Rocke.—You did not care whether they took leases or not, Mr. Staplefield—I did not.

465. Perfectly indifferent?—It was a matter of indifference to me whether they took leases or not.

466. You were quite indifferent to it, as agent of this lady?—I thought it would be for the benefit of the tenants that they should take leases.

467. And thinking it for the benefit of the tenants you were anxious they should take them?—I had no anxiety on the subject. I thought they were better off at that time with leases.

468. Did you think the increase of rent was for the advantage of the tenants?—I would not say so.

469. Now, you commenced in 1862?—I think so—1861 or 1862—the 1st November, 1862.

470. Charge your memory in this way—did you not, after having demanded an increase of rent in 1862, serve all the tenants on the lands of Montreal with notices to quit?—I think so, as far as my recollection goes.

471. Look at that document (produced)—that is in your handwriting?—Yes.

472. This is addressed to the several tenants on Montreal?—This is addressed to "John Leoney, farmer," and then there is printed underneath, "and to the several tenants of Montreal."

473. "1<sup>st</sup> April, 1862." This purports to be served personally on John Leoney. That was about the time, Mr. Staplefield, that you had resolved on increasing the rents of those tenants?—That was just after my appointment as agent.

474. But had you not at that time resolved on increasing the rents?—Yes. Mr. Mahon, who was the agent previous to me, had made a survey of another property on the same estate, and he was about to do this when I was appointed agent.

475. And you have carried out the proceedings?—Yes.

476. Would you say that in 1862, when you proposed the increase of rent, that the tenants accepted it, as you half-say here, cheerfully?—They never would accept an increase of rent cheerfully.

477. And, for the purpose of showing you were determined to have it, you served the notice to quit?—Exactly so.

478. I believe you generally are determined to have anything you make up your mind to?—I take a long time to make up my mind, but when I do I generally carry it out.

479. You had been making up your mind since the passing of the Land Act of 1870 that there was such a thing as disturbance?—Yes.

480. And you had made up your mind that such an

unpleasant burden should not be imposed upon a landlord?—I was doing my duty, as agent, to the best of my ability.

481. You thought it your duty to protect your principal against this burden of disturbance?—I may have done so.

482. And you gave instructions, sometime in 1873 or 1874, to have leases prepared?—Yes.

483. And you took an old form of lease that was on the estate, and suggested to your solicitor some additions or amendments?—I don't know whether I suggested those amendments or not; we found the old form of lease defective.

484. Did you not find it a little leaky?—Yes.

485. And you gave him instructions that it should be patched up, if possible?—Yes.

486. And that was sometime in 1872—I fancy it would be.

487. May I ask whether in 1872 you made up your mind, setting aside the question as to whose benefit it would be for, that leases should be given to the tenants?—I always was willing to give leases to any tenant on the estate.

488. Did you make up your mind in 1872 that the tenants should take leases?—I don't think I did.

489. Did you make it up in 1873?—I cannot say I did.

490. You never made up your mind that the tenants should take leases?—No.

491. In point of fact, did the tenants on this property, of which you are agent, and on your own property, all take leases about 1873 or 1874?—No; a good many of them took leases, and a good many refused.

492. Did all the tenants on this property we are dealing with take leases?—I think the most of them did, except those who had leases previously. I can go through them and tell you. Here is one, Mullins, in which there was an old lease.

493. Well, at any rate, is it not in substance that they did, those who were tenants from year to year?—Yes; we have a case here of a man surrendering his lease and taking a new one.

494. To be sure you had, but he was one of the men who sought to set aside this new lease, and alleged he had been forced to take it. I don't quite understand your evidence. Did you send Cunningham at all. Have you in your office, or in the office of your solicitor, a request, in writing, from any tenant on this property to give him a lease?—No; I don't think I have.

495. Then, certainly, it was from you, through Mr. Cunningham, that the first proposal with respect to leases came?—I think so; I told them they could get leases if they chose.

496. And that was through Mr. Cunningham?—Through Cunningham.

497. And these leases were offered, as we heard yesterday, sometime after you had walked the lands and fixed the rent?—Yes.

498. And the leases were then, as far as the forms were concerned, cut and dry in your solicitor's office?—They were.

499. Of course, the same evidence that you gave yesterday, both direct and on cross-examination, applies to this case—as to your walking the lands and making this independent valuation, and all that sort of thing?—Yes.

500. Now you never saw Andrew Burke from the time Mr. Cunningham went to him?—I saw Andrew Burke frequently from time to time.

501. From the time Mr. Cunningham went to him in August to the date of the lease, the 22nd December?—I saw Andrew Burke frequently from time to time.

502. Did you ever see him—on your oath, can you say, between the time Cunningham went to him about this lease and the 22nd December?—I cannot say.

503. You did not see James McCarthy?—I cannot say.

Jan 21, 1883.  
Richard  
Staple.

504. You did not see John Hogan t—I cannot charge my memory with seeing any of them at that particular time. I met those men frequently in Ennis.

505. Judge O'HANAN.—Mr. Roche means seeing them specially on this subject t—No, my lord, I cannot charge my memory.

506. Mr. Roche.—The leases were prepared sometime in the summer, as Mr. Cullinan said yesterday, and Cunningham was the person who was sent up to the property on the day that you were collecting rents there in November or December, to have these leases executed t—Cunningham, my clerk, Cosidine, afterwards went up to Ennis by himself.

507. And took the leases with them t—I should say so.

508. Mr. Roche.—I am entitled to ask you what you did tell Cunningham to tell the tenants?

Question objected to and not allowed.

509. Mr. JEFFERSON.—About this notice to quit that was referred to, that was served on a man of the name of Looney t—I think so.

510. Have you a note of that under Looney's account t—There is a pencil mark here.

511. There is a note of the service of notices to

quit in Burke's case, Hogan's case or McCarthy's case t—

512. Mr. Roche.—The gentleman admitted he served all the tenants t—I have no note on this of any service of Andrew Burke, the old lease expired about that time.

513. Judge O'HANAN.—Served all the tenants you said t—in 1852—I think so.

514. Mr. Roche.—Look at that (document produced), Mr. Staple t—This is signed by Mr.Mahon.

515. The late agent, your predecessor t—The former agent, and this was in 1852.

516. You see the tenant John Hogan t—Yes, rent to be raised to £36 a year.

517. Mr. LITTON.—As a matter of fact, did all the tenants on the list get leases t—I think every one.

518. Judge O'HANAN.—Now will you tell me this, Mr. Staple—I am not asking you with respect to casual conversations, but in point of business—from the time you sent the list with Cunningham to the tenants till the time you sent Cunningham again to tell the tenants to come into Ennis by themselves to execute the leases, did anything occur as a matter of business between you and the tenants with respect to the leases t—I cannot recollect anything.

#### MICHAEL CUNNINGHAM, sworn and examined.

519. Mr. JEFFERSON.—You got this list from Mr. Staple t—Yes, sir.

520. Did you get a message to deliver to the tenants, don't tell what it was for a moment, from Mr. Staple t—I did, sir; I get no message only the list.

521. Did he tell you to say anything to them, don't say what it was for a moment, to say anything to them t—He did not.

522. What did you say to them t—I showed the rents on the list and asked them would they be pleased to agree to it, were they willing to agree to it. And they were quite willing, and to take out leases.

523. What more did you say, do you remember t—No more. I went all around the whole estate.

524. In reference to this man, Burke, he is a friend of yours I believe t—The whole of them were very friendly to me, I had no difference with any of them.

525. This man Burke, your friend, did you advise him to communicate with Mr. Staple himself t—As far as I recollect, I think Burke's name was not on the list at the same time, his lease fell out sometime afterwards. Burke was not on the same list, and I went afterwards to his place.

526. Then it was not on the same occasion as the first visit t—it was not, as far as I can recollect.

527. At all events when you did so, did Burke say anything to you about allowances Mr. Staple had promised t—Burke asked me would I get him some horses for a hinny or something of the kind.

528. What did you say to that t—I told him I would speak to Mr. Staple about it.

529. What more occurred t—I believe he wanted some timber, and I got timber and slates for him.

530. What was the timber for t—for carts.

531. Was anything said in reference to his writing to Mr. Staple about the lease t—I don't recollect.

532. Did you go with him, did you accompany him to Ennis t—I think I did, sir.

533. Is it true that you said to him if he did not take the lease Mr. Staple would serve a notice to quit upon him t—I never said the like.

534. Or, that if he did not sign the lease, Mr. Staple would turn him out t—Never.

535. As he had done Michael Hogan t—Never mentioned anything of the kind.

536. Did you say to him that he would be obliged to take the lease t—No, as far as I recollect, I think he was quite willing to take the lease.

537. Did he say anything about the increase of rent, whether he was unwilling or not to that t—No, sir, I

think not. In fact the whole of them were quite willing to take out leases.

538. Did you say anything about Mr. Staple recompensing him for the improvements he had made, do you recollect t—No, sir, I had no authority to say anything of the kind.

539. Now, do you remember going to McCarthy t—I do, sir.

540. What did you say to McCarthy t—I told him the rent that was fixed on him, sir.

541. Do you remember then meeting him when he came to sign the lease t—I do, sir. I believe it was at Ennis t—He signed the lease.

542. Did you say to him that it was no use talking, they should sign the lease or he turned out t—No, I did not, sir.

543. Or anything to that effect t—Never; never threatened anything of the kind, sir. I had no authority either for doing so.

544. You never got any directions to do so, at all events, if you did t—Never.

545. Do you know John Hogan t—I do, sir.

546. When did you see him last t—I believe it was about twelve months. I was there lately, but I did not see him, they told me he was not at home.

547. When were you there last t—I believe about five weeks ago.

548. Have you seen him walking about lately t—No, I did not.

549. When you saw him last was he able to walk about t—I did not see him, sir.

550. Twelve months ago, yes and you saw him, then he was able to walk about t—He was. He was always able to walk about; but I will tell you the cause altogether. His wife manages the whole of the affairs and he has nothing to do with anything of the kind; she pays rents and manages all, and goes to the fairs and markets.

551. Do you remember seeing Mrs. Mary Hogan the day you went there with the lease t—I cannot say, sir. I could not agree with Mary Hogan at all; John Hogan was the man I agreed with I know.

552. Do you remember speaking to John Hogan t—I do.

553. While you were speaking to him was the wife there t—I don't recollect.

554. What did you say to John Hogan t—I told him about the rent that was named.

555. What did he say to that t—He agreed.

556. Do you remember leaving his house and going

down towards Dillon's!—That was the road I should go!

587. And while you were at Dillon's did Mrs Mary Hogan come up!—I don't recollect.

588. Do you remember her saying to you, "What kind of news have you got, or will I get a notice to quit before the month of November?"—I don't recollect anything of the kind.

589. And you said she would; did you say that?—No, never. I never threatened anything about a notice to quit; I had no directions either for anything of the kind.

590. Did you say that they should take a lease and Mr. Stacpoole would not allow any tenant to be without it, or anything to that effect?—No, I did not say it, sir.

591. Did she say to you, that if she saw Mr. Stacpoole he would not ask him to take the lease?—I don't recollect anything of the kind.

592. Did you say to her that she could not see him?—I did not; of course she could see him, if she went to see him, if he be at home, sir.

Cross-examined.

593. Mr. Cooke.—You stick to one thing at any rate, Cunningham, that if you did use a threat, as you said yesterday, it was without the master's authority!—Certainly, sir.

594. And you went up and you said—now, we will take you to John Hogan. "John," said you, "will you be pleased to have an increase of rent?"—Yes, sir, I showed him the list into his own hand.

595. Will you be pleased to pay an increased rent to the master? and John said at once he was quite pleased!—Of course they all agreed.

596. And all were pleased to pay the increased rent!—The whole of them, if they did not the leases would not be prepared for them.

597. Was it you served the notices to quit in 1863?—Any notices that were served I served them.

598. You served them in 1863?—I cannot say what time I served them.

599. But some were served at that time?—I cannot give any dates.

600. You will have to answer that question!—I cannot.

601. Well, then, you will.—Well, then, I won't.

#### RICHARD CUNNINGHAM sworn and examined.

602. Mr. Atkinson.—Mr. Constitue, you see a clerk of Mr. Stacpoole's!—Yes, sir.

603. Do you remember going in December, 1874, to receive rents at Enniskymon?—Yes, sir.

604. Was Cunningham, the constable, with you?—Yes, sir.

605. Had you got a bundle of leases from Mr. Culmane?—I had.

606. That was the day the rent was to be paid?—Yes, in or about that time.

607. Do you remember Andrew Burke coming to pay his rent?—Yes, sir.

608. Had you any conversation with him?—No, sir.

609. He paid his rent. Did Burke pay his rent, the old rent he had been paying previously?—He may have paid it that day or he may not.

610. Have you any date there that will show the day he paid it?—Some of them may pay on the day we go to collect the rents and some may not.

611. Have you got any book that will show you the actual date of the payments. At all events we know he did not sign it there, he signed it at Edenvale?—It would be on the 21st November, 1874, that was in or about the time that we generally go to collect the rents.

612. Are you able to say that Burke paid his rent that day?—I am, sir.

613. What rent was it?—It was the May gale of 1874, £3 on the 21st November.

614. Do you remember Pat McCarthy coming, that

593. Do you know the time Mr. Stacpoole was putting on the increases of rent on the tenants, when he came into this property?—I do, sir, I will answer that question.

594. Do you know the time when the tenants signed the proposals?—I do.

595. Before the tenants signed the proposals did you serve them with notices to quit—come now!—You may be sure I will answer, as far as I recollect I served the notices, I don't want to deny it at all, nothing of the kind.

596. Now, yes see you have answered—if I can answer it I am quite willing.

597. You cannot charge your memory with how many you served?—I cannot.

598. Might have served twenty?—I cannot say how many.

599. At all events on all the tenants of this townland, Moanreal?—Not all cases, a great many had old leases.

600. Those who had not the leases?—I cannot say, now, I know I served the notices.

601. You were in Enniskymon?—I was, sir, I was there.

602. Was Mrs Hogan there with her husband?—I cannot say, sir; she might be there.

603. Do you know that her husband has been a little wrong in his mind for a good many years?—It is not the case, sir, as far as I know.

604. You say that she has been managing for him?—Certainly, sir.

605. For a long time?—For a long time, you got a good many women doing the same thing.

606. Have you got a wife?—I have.

607. Does she manage for you?—I manage my own affairs.

608. Judge O'HARA.—Did you in December, before the leases were signed, go to the tenants to tell them to come into Enniskymon?—No, we went to collect rents, and on the day of collecting rents we had the leases there.

609. Mr. Atkinson.—Probably your lordship will ask him did they refuse to accept the rent until the leases were signed?

610. Mr. Cooke.—Those tenants before 1862 were entitled to turbary, were they not?—I cannot say, I cannot recollect that at all, sir.

Richard  
Cunningham

young man, James McCarthy, I believe it was, the son, that came?—Yes, sir.

611. Did he pay his rent upon that day?—He did, sir.

612. Did he execute the lease upon that day?—Yes, I think he did so that day.

613. Did you say to him—did you refuse to accept the rent—what did you say to him?—Did you hear Cunningham say in your presence that the rent would not be taken from him unless he signed the lease?—No, sir, I did not.

614. Did you hear Cunningham speaking to him?—I did, sir. There are so many of them coming in on the day of collection that of course from personal recollection I cannot say exactly what might be the conversation.

615. Did you yourself refuse to take rent from anyone until they had signed a lease?—No, sir.

616. Did you hear Cunningham refuse to take rent from anyone until they had signed a lease?—No, sir.

617. Did you hear Cunningham say to McCarthy or any of the others that it was no use for them, they should sign?—No, sir, it was never expressed in my hearing.

618. Do you remember Mrs. Hogan coming in?—I think, I do.

619. Do you remember her talking with Cunningham, she paid her rent?—That was John Hogan.

Jan. 27, 1882.  
Richard  
Conidine.

611. Yes, sir, she paid it that day, not the rent in the lease, the old rent.

612. Had you any conversation with her, or do you remember Cunningham having any?—No, sir, not any further than what conversation may have occurred in the receiving of the rent.

613. But you did not refuse to receive rent from any person until they signed a lease?—Certainly not, there was a girl's rent received after that of the old rent, there was a half-year's rent at the old rent.

614. What date?—5th June, 1875.

Cross-examined.

615. Mr. Royle.—You have no distinct recollection of any conversation between Cunningham and the tenants on that day?—Not any distinct recollection between them individually.

616. How many leases do you recollect had Cunningham that day?—I cannot say, sir, I don't remember what number of leases we had that day.

617. You did not pay much attention to the leases?—No, sir, further than any of them that were signed in my presence, I believe I witnessed them.

618. Cunningham was carrying on the arrangements about the leases with the tenants?—He was carrying on no arrangements.

619. It was his business to look to the leases?—It was not, it was as much my business as his because the arrangements about the leases were made previous to that, the leases were there brought to us to be signed.

620. But you say you don't know how many were taken?—I don't recollect the number.

621. I suppose Cunningham was much better acquainted with the tenants than you were?—He was.

622. You were a clerk of Mr. Stacpoole's?—Yes.

623. And he was half and half master, and a general handyman to do the jobs on the estate?—Yes.

624. Is it a fact that when you are receiving these rents you only allow one tenant at a time into the office?—Sometimes there may be two or three, sometimes one.

625. The rule is you only allow one?—We have no rule fixed to that; sometimes there might be five or six in the room, only just for my convenience that they would not overcrowd. If I let in of course the number of tenants that would come on the day of collection I never could do it.

626. Do you take the money?—I do, sir.

627. And put it into your pocket?—I do not put it into my pocket; I put it into the cashbox and generally lodge it in the bank before I leave.

628. It is your business to enter it in the books?—Yes

629. About how many tenants might you receive rent from at a rent meeting in Ennismore?—I suppose about fifty or so, on the average, about that.

630. Do you give them receipts?—I do, sir.

631. Have you the receipts drawn up?—That is before I go to receive?

632. Yes?—Yes, sir, I have.

633. You have to inspect the poor rate receipts, I suppose?—Yes, sir.

634. And see that everything is right and see that the books are right?—Yes

635. Is Mr. Cunningham there to watch you or the tenants?—He is not there to watch me or watch the tenants, but generally he comes with me to tell the tenants to come in.

636. It was not for purely ornamental purposes he went there?—Of course it was not.

637. You saw Mrs. Hogan there that day?—Yes, I suppose I did.

638. Mr. Atkinson.—I forgot to ask him if any of them made any complaints that day with reference to the leases?—They none of them made any complaints.

639. Judge O'HAGAN.—Will you just tell me all that occurred from the time that they came in until they went out, any one of them, now for example take Mc'Carthy. McCarthy came in, what did he do?—It appears that he came in.

640. Have you any recollection at all?—I have my lord. He came in and I asked him—Cunningham said that the leases were here now for the tenants to sign, and he said, to the best of my recollection, of course I cannot tell the precise words, he said of course that he would sign the lease, but that he could not write himself, and that if I signed his name he would witness it to me.

641. Is he a marksmen?—He is, my lord.

642. And thereupon he puts his mark?—He put his mark.

643. Well now allow me to ask you, did you read this lease over to him?—I believe I did.

644. Now Mr. Conidine just think and remember, did you read the lease over to him, it is not a matter of thinking?—Well, I don't remember that I read the lease at all, my lord.

645. In point of fact you did not read the lease to any of them?—I don't think I did, I got no directions with respect to it.

646. Had you ever witnessed the signature of a marksman before Mr. Conidine?—I had, my lord.

647. Were you aware that in witnessing the signature of a marksman it is put in the attestation clause that the instrument has been duly read over and explained to him, you were not aware of it?—No, I was not.

✓ JONES CULLINANE sworn and examined.

648. Mr. Atkinson.—Mr. Cullinane, do you know that man, Burke?—Well, I have known Burke's appearance for a great many years.

649. Had you any conversation with him with reference to this lease?—I never had any conversation with him in reference to this lease.

650. Had you any conversation with him in the office about this time on other business when these leases were being executed?—No, I never had any conversation with Burke more than to advise him on the road. I knew him for years and where he lived.

651. You heard him swear he did not know you?—Yes.

652. In reference to Mc'Carthy, do you know him?—I don't know him.

653. Mary Hogan, I believe you know her?—I do, well.

654. I believe you were guilty of the indiscretion of telling her that she talked too much?—It is quite likely I did.

655. She came to your office several times?—At

the time these leases were prepared I kept my office in my house, and I recollect on many occasions finding Mrs. Hogan sitting in my hall when I came down to breakfast.

656. Do you recollect the conversations you had with her then?—I recollect having frequently conversations in the house.

657. Do you recollect the substance of the conversations?—I recollect her importuning me to get from Mr. Stacpoole a part of her brother-in-law's land which was then under cultivation.

658. Did she say anything to you in reference to this lease?—I recollect her stating that her land was too dear and if she got a portion of the additional land it would enable her to set up one of her sons in it.

659. Did she say whether it was the new rent that was too dear or the old rent?—She did not say which, I assume it was the new rent.

660. Did she say anything more than you can remember about the lease of the land or the rent?—

Something more. She came to me several times and brought other people to me, and was always saying, "Mr. Stacpoole will do whatever you ask him, can you not do this?" I said at last that Miss Stacpoole had been deceived by your lordship in compensation for disturbance, and the arrangement Mr. Stacpoole proposed to make was that the incoming tenant should pay whatever the compensation for disturbance was, and the costs. She said, "I have no money." I said then, "It is no use going to Mr. Stacpoole." It was arranged to let the land in two divisions. We got £120 from one man, and £250 from a widow that was on the estate. That was the compensation from your lordship in the land claim.

661. Did she say anything in reference to Cunningham having threatened her husband?—I did not hear any complaint of a threat in any of these cases until the originating notices were served.

Cross-examined.

662. Mr. Esche.—Until the Land Act was passed, I suppose they were all resting quietly under the shadow of these leases!—The Land Act was passed before these leases—the Land Act of 1870.

663. Do you think any remonstrances about these leases in the interval between 1874 and 1881, addressed to you would have been of much use to the tenants?—Between 1874 and 1881?

664. Between the time the leases were granted and 1881; would any remonstrances addressed to you be of much use to the tenants?—Why should they be addressed to me, what had I to do with them? I believe before the leases were executed if a remonstrance had been made to me with regard to the rent, and I had represented it to Mr. Stacpoole, he would have entertained it; and it was with that view, in Hogan's case, Mrs. Hogan came to me.

665. In what respect did Mr. Stacpoole yield to your remonstrances in respect to these leases?—I cannot say in any of those leases.

666. As to any one of those leases, at any rate, or any one case on this estate, you cannot say that Mr. Stacpoole yielded to any of your friendly remonstrances on behalf of the tenants?—I did not ask him. I refused to ask in the case of John Hogan, and in the case of Moloney.

667. When was Michael Hogan evicted?—As well as I recollect it was between the beginning of 1874 and 1875. I am speaking from recollection; it was sometime in that year.

668. In the beginning of 1874?—It was sometime about then.

669. When was the decree of compensation for disturbance pronounced?—I cannot tell you.

670. Really, Mr. Collinson, these proceedings were conducted in your own office?—They were, I paid the amount of the decree to Mr. Shannon.

671. You defered the compensation for disturbance claim?—I did.

672. And this was only one transaction and you cannot recollect anything about it. Can you tell me the sessions at which the decree was made?—Mr. Stacpoole has the entry in his book and I have seen it.

673. What Mr. Stacpoole has done, with great respect to him, is topsecret. Mr. Collinson has made a multitude of transactions that his memory is not on the matter at all so accurate as to be relied upon. Now, aided by that book can you tell me when the ejectment decree was pronounced against Michael Hogan?—You know the proceeding commenced with a notice to quit, the ejectment was consequent upon that, and the land claim as well as I recollect was heard at the summer sessions in Ennis.

674. 1874?—I won't say whether 1874 or 1875, either year.

675. You cannot say it?—I cannot.

676. And you cannot say when the ejectment decree was pronounced?—No, I cannot.

677. You were not sheriff then?—No, I was not sheriff since 1872, I think.

678. Can you say when possession was taken from Hogan?—I cannot.

679. When was the new letting made to these new tenants who came in?—I can tell you by reference to the lease if you let me look. It was let one division, 1st May, 1875, to Thomas Horan.

680. Was there a letting made of a part of the holding before that?—The ordinary letting was made pending redemption.

681. When was that made pending redemption?—I cannot tell you, it was not I made that; but I have the proposal which Horan signed in my presence on the 1st May, 1875, agreeing to take a lease and pay £255.

682. Do you recollect Mrs. Hogan having come to you in the early part of the summer of 1874?—I cannot tell you what part of the year she came, I had several interviews with her.

683. And you have no recollection of what part of the year it was?—No.

684. Perhaps you can say whether it was in 1874 or 1875?—It was when we were about getting possession of these lands.

685. But may it have been in 1875? With reference to that lease can you charge your memory to say it was not in 1875 she came to you?—It may have been sometime in the beginning of 1875 or end of 1874, I cannot say which.

686. She may have been with you in 1874?—She may have been.

687. She was very often with you I understand?—She was with me half a dozen times or more.

688. Did she tell you she was going to Mr. Stacpoole?—I always referred her to Mr. Stacpoole, it was no affair of mine.

689. In fact she wearied you?—Eventually she did. I was very civil to her at first. It was very annoying to find a person sitting in your hall on a Saturday morning, when you come down to your breakfast and wanted to get out to business and I said there must be an end of it.

690. Judge O'HANAN.—You said you only knew Burke to salute him, and did not know McCarthy at all?—Yes.

691. So you had no conversation with them about this lease?—I had not.

692. Now will you tell me your part with regard to these leases, what occurred with respect to them as far as you are concerned?—I was told as I said yesterday to prepare new forms of printed leases.

693. That was in 1872?—About that.

694. And you got these prepared?—I got these prepared and printed.

695. You had them then in your own office?—I had.

696. With respect to filling up the forms in the particular cases what occurred?—A slip of paper, I think it was on the back of an envelope or some such small strip of paper, on which the names of the parties and the rents proposed to be charged and the terms were written by Mr. Stacpoole, that was handed to me and I filled up the form of lease from that.

697. And when you had them filled up what did you do?—There were two of them that were witnessed in my house, John Hogan and John Moloney.

698. But with respect to the particular cases we are dealing with, what did you do?—I had the forms filled and gave them to either Cunningham or Collinson in a bag when they were going to Bantryman.

699. So you had no communication with the parties concerned in them yourself?—I had conversations with them.

700. You may have had accidentally but as a matter of business you never had any conversation with them?—Never.

701. As far as you are concerned you merely filled up leases by direction of Mr. Stacpoole's agent, and gave them back to the same agent?—Yes.

702. Mr. LYTTLE.—Were you instructed by Mr.

John —  
Catherine.

Jan. 27, 1882  
John  
Cullinan.

Staplefield to put up the term of thirty-two years!—I was.

703. These were his instructions!—It was the result of his interview with me when discussing the Land Act in other cases, before these leases were printed at all, I said if they took leases it would be desirable they would be for a term of thirty-two years.

704. Judge O'HAGAN.—So that what you told us yesterday with respect to having in some of the cases explained to the tenants the contents of the leases and having stated that they would be deprived of their compensation for disturbance does not apply in these cases?—It applied in one case in which the man was in the place, and I read him the covenant of the lease.

705. What case?—The old man, Hogan.

706. But it does not apply to any other case?—Well, really all those people knew me personally, and used to meet me in the streets. I won't charge my memory with having explained them to anybody else.

707. I don't ask you what may have casually occurred, but I ask you what occurred as regular detailed matter of business?—Well, my lord, I won't charge my memory with any individual case.

708. Mr. Atkinson.—Mr. Staplefield will identify the letting of Michael Hogan's holding. Have you any record of the time you got up possession?

Mr. Staplefield.—I have, I have it in pencil that on

20th August, 1874, set the ground subject to reversion to Thomas Horne, for six months, from 6th July, at £4.

709. Was Patrick Hogan's lease executed at Ennistymon or in your own office?

Mr. Atkinson.—At Edenvale.

710. Judge O'HAGAN.—At what time, Mr. Cullinan, was it you saw Patrick Hogan and gave him this explanation, have you any entry in your books?—No, my lord, I have not.

711. When was it done?—It was done when we got possession from Michael Hogan.

712. Then what occurred?—I had those leases in the place, and he came in about this holding of Michael Hogan's, and we were talking about things. He was asking if he could get some of it, and talking about the lease he was getting.

713. What time was that?—I cannot say.

714. Was that with regard to the lease of Michael Hogan's farm?—Oh, no, it was with regard to the lease he came in, seeing if he could get a part of it, but the leases were in course of arrangement at that time, and he asked about the leases, and what they would be like, and I told him what the leases would be for, and what the effect of them would be. All these people were bothering me about this evicted farm trying to get portions of slices of it.

Judgment reserved.

## BEFORE MR. JUSTICE O'HAGAN, AND MR. COMMISSIONER LITTON, Q.C.

Jan. 28, 1882

LIMERICK, JANUARY 26th, 1882.

PATRICK MEADE,	-	-	-	-	-	-	-	Tenant;
KNIGHT OF GLIN,	-	-	-	-	-	-	-	Landlord.

Mr. D. B. Sullivans, instructed by Mr. P. S. Cusack for the tenant; Mr. John Atkinson, Q.C., instructed by Messrs. Cuthbert and Hemphill for the landlord.

Patrick Meade:

PATRICK MEADE examined.

1. Mr. Sullivans.—Are you a tenant of the Knight of Glin?—I am, sir.

2. How much land do you hold from him?—About fourteen Irish acres.

3. The valuation of that farm I believe is £7 15s.—£7 15s.'

4. And your present rent is £13 a year?—£13 a year.

5. Now, how long had you yourself been tenant on that farm?—About twenty-three years.

6. Have you held it during these twenty-three years as tenant from year to year?—Yes, sir, I have and my mother, and my brother held it before me as tenant from year to year.

7. Was your mother the tenant before you got the land?—Yes, she was, sir.

8. Your father died before she did?—He did, sir.

9. And had he been tenant?—He had.

10. You were born on these lands and lived there all your life?—Yes, sir.

11. Now, what was the first rent you remember to have been paid on this holding?—£7, and I heard my father stating it had been cheaper.

12. You knew that £7 had been paid for it?—Yes, sir.

13. Now, when was the first change of rent made?—Under the present Knight's father, twenty-six or twenty-seven years ago.

14. And what was it changed to first?—£10.

15. Now, who was the tenant at the time it was changed to £10?—My mother was.

16. When was the next alteration in the rent made?—In '74 or '76.

17. Was that before the lease?—No, sir, at the time of the lease—1876.

18. And the rent was made £13 in the lease?—It was.

19. This lease is made on the 31st of August, 1876, and I want you to tell me what improvements you made before the date of the lease, first and foremost as to building; confine yourself to what you did yourself?—I built a room about fourteen feet in length, and the same in width.

20. Was that in addition to the dwelling-house?—It was and I stated that.

21. Did you build it?—I built it and stated it. I built two stone chimneys on it, sir, and I built what I call the gable end to the western end of it.

22. Judge O'HAGAN.—These were all built by yourself?—Yes.

23. Mr. Sullivans.—Now, without going very minutely into it, did your father put up the farm buildings?—He did, sir.

24. Amongst other things did he build a house?—He did, sir.

25. How much land did you have with the house built there?—I leased about seven acres. I only leased six before I got the lease, and bat one since.

26. How long before you got the lease did you have these six acres?—I suppose about twenty years ago I commenced at the improvements.

27. When did you have the last of it before the lease?—About a year or two before.

28. Now, we come to the main substantial part of it; did you drain any part of this land—I drained about seven acres—about six or six and a half before I got the lease.

29. What kind were these drains you made?—They were from two and a half to three feet in depth—stone drains.

30. Did you close them?—I did.

31. Besides these drains, did you erect any fences on this farm?—I did, sir.

32. Just tell the court what you did in that way?—I suppose I levelled 230 perches of old, and I think I made 112 of new fences.

33. What did you do with the earth of these old fences—did you use it in the topdressing?—I used it in topdressing and I put it in dykes.

34. Was that an improvement to the holding to remove these old fences?—It was, sir, and I topdressed about one acre of meadow with lime and dung.

35. About that lease of yours—who came to you first about the lease?—The Knight of Glin, and his agent and process server.

36. Did they come to you on the lands?—They did, on the lands.

37. Judge O'HANAN.—Did the three come together?—They did.

38. The Knight of Glin and his agent. What is his name?—Hemphill—Sergeant Hemphill, I think.

39. And what is the bailiff's name?—Morty McElligott.

40. Mr. ADDISON.—He was not a bailiff?—A process server.

41. Mr. SUFFRIN.—I believe there had been a valuation made at the time?—They had some valuation it appears.

42. Was the process server one of the valuers?—It appears to be he was, still I cannot say.

43. Tell us the conversation that took place between you and the bailiff on this visit to the farm?—They did not tell us where they were going until they went home again, but in the course of three or four days again, when they called she tenants of the townland into the castle where they held an office.

44. That is into the residence of the landlord?—Yes; he called me into the office, when it came to my turn to go in and asked me what rent I would pay for my holding.

45. Mr. ADDISON.—Who asked you?—The Knight of Glin. I told him I could not pay more than the old rent, that it was too high, that his father raised it before on my mother and charged half a year's fine. He said he did not care what his father did, that I should comply with the rent of £18 a year, and take out the lease. I told him that I did not want the lease that I had a large family and that I could not pay for it. He said that I should take out the lease, and that if I did not do that the whole of us must have a combination made up, and by his God he would evict us out of it.

46. Judge O'HANAN.—Who was that?—The present Knight of Glin. I did not comply then; I went out, and myself and the rest of the tenants came to an understanding that it was best to go in and comply, and in the course of the day we turned in again and told him we had to comply.

47. Mr. LOTTOR.—Was that the same day?—Yes.

48. Mr. SUFFRIN.—Was it that threat induced you to take this lease?—So it was sir.

49. Did you ever apply for this lease or ask for it in any shape or form?—Never.

50. Had you to pay the costs of preparation of it?—I had to pay £2 10s. 8d.

51. Expenses in connexion with the lease?—Yes.

52. This (prescribed) is the lease?—Yes.

53. Have you told us all that occurred at the interview?—When this lease was perfected we were all sent for to take out the lease, and I did not go in on the appointed day because I was not able to pay for the lease, and I met the Sub-agent in the town, and he asked me why I did not go in.

54. Who was that?—David O'Leary, he is dead since.

55. Tell us what he told you?—He told me if I did not go in and take the lease I would be evicted; so I went down and borrowed £3 and paid 1s. discount on the £3.

56. You borrowed £3?—I did and paid 1s. discount for it and went down to the office and paid £3 and got £s. 6d., back I think.

57. And those were the costs of the lease?—Yes.

58. Tell me, now, was that lease ever read to you?—Never.

59. Who was present when you signed it?—David O'Leary was.

60. Anyone else?—Yes, the Knight of Glin and Mr. Hemphill.

61. Was it read over by either of these parties?—Never a word.

62. Take it you should, and you signed it?—Take it I should, and I signed it.

Cross-examined.

63. Mr. ADDISON.—You know David O'Leary is dead?—Of course I do.

64. And you know he was only a clerk in the office?—I do not.

65. What agency work did he ever do in his life?—Where we used not have the rent for Mr. Hemphill when he came for it, it was to him we paid it always.

66. When he went away he left this clerk in the office?—I can't say, but he was considered the sub-agent.

67. You did not wish to pay the increased rent?—I did not, if I could help it.

68. If you had to pay the increased rent you would like to have a lease?—No, sir; I created the lease of no value, because the land was too high.

69. Suppose you had to pay an increased rent, would you not rather have a lease than no lease?—No; because I would rather buy two or three bags of yellow meal with the money than pay for it.

70. It was the cost of the lease you objected to?—It was that and that.

71. If you had to pay an increased rent the lease did not make it deserve?—It made it deserve when I was paying for the lease.

72. But, except the costs of the lease provided the rent was increased on you, you would make no objection to the lease at all?—I did not want one at all. I never asked for it.

73. You did not want the rent increased?—No, nor the lease. I did not ask for it.

74. Do you remember the day the Knight of Glin went on the land?—I do, well.

75. Now, Mr. McElligott, that you called three times the process server, I suppose you forgot to say he was a neighbouring farmer?—He was a farmer.

76. Was he in the habit of valuing land?—I never knew that he was.

77. Did he go over this place to value it?—I cannot say, but the agent and the Knight came out together.

78. He is a neighbouring farmer?—As far as holding a farm of land, he was.

79. Did they tell you when they met you that day on the ground that there had been no rise of rent on you for twenty-seven years—did they tell you that?—No, they said nothing about it.

80. Did they say anything about the lease?—Not a word.

81. Now, Mr. Hemphill was there, the Knight of Glin, and McElligott. Will you undertake to say the whole subject of the lease was not discussed there?—Not a word.

82. Even if the Knight and Mr. Hemphill say so?—There was not a word about the lease.

83. Did they tell you what they were coming for?—They did not.

84. Did they say anything about your farm?—I showed them the improvements I had made.

JESUS CHRIST,  
Patrick MacCabe

85. For what purpose?—For no purpose more than that they came in.

86. They were not shooting?—No, indeed.

87. And you had no conversation with them at all?—I had.

88. What was it?—They asked me to show them my land.

89. Did you ask them what for?—I did not.

90. Did you make any complaint that the land was too high?—No.

91. Did you ever see the three of them there before—the landlord, the agent, and this man?—I did not.

92. Did you make any inquiries as to what they were there for?—No; I did not consider it my business.

93. And you never said one word about it?—Not one word.

94. At the time you were called into the office did you know any increase of rent had been put on you by any valuation?—I did not know until I was called in.

95. You did not know that any valuation had been made?—No.

96. What did the Knight of Glin say?—He asked me what I would pay for my land.

97. Pay an increase for it?—I don't know. What I would pay for my land, and I told him it was too dear at the old rent, that we were never able to pay without going into the bank for it. He said he did not care, that he would give us a lease for thirty-one years, but I told him we did not want a lease at all, that we were not able to pay for the lease even; he said I should comply by taking the lease, and pay £13 a year for the holding.

98. Was it not increased rent he wanted?—He wanted this and that.

99. Did he not say you must pay an increase of rent, and if you like I will give you a lease?—No, he said I should take the lease, and pay the increase.

100. Was anybody by at this?—No, only himself and his agent. We were only called in one by one in our turn always.

101. The Knight of Glin was not here when you gave your evidence. I would just ask you to repeat all he said now?—He asked me what rent was I going to pay for my holding. I told him my holding was too dear before, and I could not pay any more than the old rent; that his father put a rise on before him, he said he did not care for that, that he was

going to give me a lease for thirty-one years. I said I did not want it at all, as I could not pay for it. He said if I did not comply, and take the lease, and pay £13 a year, it must be that the whole of the tenants had a combination made up, and, by God, he would eject me out of the holding.

102. Was the lease prepared then?—No.

103. Was it produced to you then?—No.

104. How soon after did you execute the lease?—I cannot say.

105. Where did you execute it?—At David O'Leary's, in Glin.

106. Did David O'Leary read it over to you?—No.

107. Did Mr. Hospital?—No.

108. And you did not read it yourself?—No.

109. Did you object to it?—I objected to it before, but I was called in same day of the week.

110. What day?—I cannot say, but I did not go in because I had not the money, and was not inclined to take it, and I met David O'Leary in the town after, and he asked me did I not go in. I said I had no money. He told me if I did not come in and take it out, I would be put to costs. I was afraid of being ejected, and I borrowed £3 10s. as I told his lordship, and paid for it.

111. Now, about these buildings, when was the recent made?—Ten or twelve years ago.

112. Was your mother living in the house then?—No, she is dead, these twenty years.

113. Were there two families living in the house?—No.

114. The gable end, when did you build that?—I believe it was the year after the room.

115. The kiln?—It was my mother built that.

116. How long ago?—I cannot say.

117. The drains, when were they made?—The commencement of them was made twenty years ago.

118. And the last of them?—The last of them I made some nine years ago, and I made some since.

119. You levelled 230 perches?—Yes.

120. And built 112 perches?—I think so.

121. Have you any receipts—before this lease was made?—No, I have not, though I have them at home.

Re-examined.

122. Mr. Sulliven.—Was it in the interval between the time you were called into the castle, and told you would be evicted, and the time you took the lease that you saw O'Leary, the sub-agent?—It was, sir.

123. And he told you the same story?—He did, sir.

Searle  
Hempill

#### SARAH HEMPILL examined.

124. Mr. Atkinson.—You are solicitor for the Knight of Glin?—I am.

125. And also agent—do you remember in what capacity O'Leary held under you?—He was a clerk.

126. Did he let land, evict tenants, or serve notices to quit?—No, nothing whatever, except enter rents in the book according as they were paid.

127. And when you would not be there, he would receive rents, enter them, and trust to you?—Yes.

128. Beyond that he had nothing whatever to do?—No.

129. Judge O'HAGAN.—Where was it you received the rents?—In Glin, generally.

130. Mr. Atkinson.—You go down from Dublin to Glin to receive the rents?—Yes, and any that we did not receive they afterwards paid to O'Leary and he remitted to me.

131. Any notices to quit and evictions were all executed by you?—There were no evictions in those days; but all those things are done, now, by me, and not by O'Leary.

132. Do you remember going over these lands with the Knight of Glin and M'Ellisott, shortly before this lease was made?—In August, 1875.

133. M'Ellisott was a practical farmer?—He was and is.

134. Judge O'HAGAN.—Is he alive?—He is.

135. Mr. Atkinson.—Did he value these lands?—He did, and the Knight and I, conjointly, went over the lands, and all came to the conclusion as to the value we put on them—this farm amongst others—about the entire townland.

136. What valuation did you come to?—We put £11 on acres all round on this farm.

137. There were fourteen acres, Irish?—14A 1R 10s.

138. Now, was there any reduction of that?—It was arranged, afterwards, that he would be only charged £13.

139. How long had he been paying £13 rent?—He was paying £10 from the time I became agent.

140. Did you see this man there?—I have no doubt I did. I forgot the particulars. I suppose there were sixteen or eighteen tenants on the townland that were examined.

141. Do you remember having any conversation with him on the lands?—I had a conversation with every one of the tenants.

142. Are you able to say whether you spoke to this particular man?—Well, I cannot. I am certain I did; I have not the slightest doubt about it.

143. Judge O'HAGAN.—Have you a distinct recol-

lesson about it!—Not about this more than any other man.

143. Mr. Atthiesen.—Have you a distinct recollection that you spoke to every tenant on the estate!—Yes.

144. Had you a list of the tenants with you!—I had.

145. And as you came to each man's holding, have you a recollection of speaking to each man that represented himself as the tenant!—Just as I said before, I must have spoken to every one.

146. At all events, were you in the office, subsequently, when they were called into the office as to these leases, he says you were; you did not hear him examined, but he said that he was sent for and that you and the Knight of Glin were there, do you remember that?—I do not remember the particular occasion, for they came in and out so very often.

147. Had you any particular negotiations with this man, with reference to the lease at all!—Not with him more than any other tenant. Every one of the tenants came in, but one and all agreed to take their lease at the particular sum put on—some objected and those were a little taken off.

148. At all events, did you or the Knight of Glin say on any occasion ever say if he did not take the lease, "by God," he would be evicted!—Never one word on the subject.

149. Did you ever say anything of that kind to him!—Never.

150. Did the Knight of Glin ever say anything of that kind in your presence!—Never, the lease was given to him as a boon.

151. Did he object to the increase of rent!—They all objected to the increase of rent, of course.

152. Did they make any objection to the leases, assuming the rent was increased on them!—Not the slightest—they were glad to get it.

153. Did this man ever make any objection to you of the granting of the lease!—Never, to my knowledge.

154. Or did he ever make it to the Knight of Glin in your presence!—Never, that I can recollect.

155. Could he have said it!—I do not think he could have said it in my presence without my remonstrating it.

156. Could you have forgotten a matter of this kind—if the Knight of Glin said, "there is a combination amongst you and if you don't agree I will eject you," could you have forgotten that if it happened!—I never heard anything of the kind.

157. Could it have occurred in your presence without your remembering it!—It could not.

158. Did you as far as you can recollect ever threaten to evict him in any way!—I never threatened to evict any tenant of the Knight's, except for non-payment of rent, and until very lately there was no such thing as non-payment of rent.

Cross-examined by Mr. D. B. SULLIVAN.

159. Where do you live!—I live in Dublin.

160. Now, Glin is not very accessible from Dublin—how often in the year do you go there!—Twice and sometimes three times, but scarcely ever more than twice.

161. But did you not go on each of these occasions for the purpose of collecting rent!—I did.

162. Where did O'Leary live!—He lived in Glin.

163. And was employed in the office there!—Yes.

164. And anything that had to be done with the tenants upon the property in your absence was done by him or through him!—There was nothing to be done except to collect the rents.

165. He was on the spot, and in the office, and you went down twice a year to collect rents; now as to the valuation, as I take it the three persons who made it were the Knight of Glin, the landlord, his solicitor, and the process server!—He happens to be a process server.

166. Did you value on that occasion the property

of the four tenants who appeared before the Sub-Commissioner!—It is another townland altogether.

167. Did you on that occasion value the holding of the two Deanes, Hanrahan, and Heney!—We did.

168. And fixed the rent!—Afterwards we agreed about it.

169. And the rest of these men you fixed at £94 a year!—The four in the aggregate, about that.

170. Has it not been reduced by the Sub-Commissioner to £82!—It has, but these are appeals against it of course.

171. Have you any recollection now of anything—can you repeat one word of anything that passed between you, that man, and the Knight of Glin!—Well, I cannot at this distance of time, nothing particular.

172. Judge O'HAGAN.—How many tenants took out leases on that occasion!—I think thirteen.

173. How many tenancies there on the estate!—On this particular townland?

174. Yes!—There appeared to be about eighteen, who had not leases before.

175. And of the eighteen, thirteen took the leases!—Yes.

176. What became of the other five!—They were—one or two of them had leases before.

177. But were there any of them who had not leases before!—No, I think there were only fifteen tenants, I was adding another little townland to it; there were only about fifteen tenants, and thirteen of them took leases.

178. Mr. LATTON.—On that occasion!—Yes.

179. Judge O'HAGAN.—That is every tenant—Almost every one who had not a lease.

180. Were leases given on any other townland at that time!—They were on another townland at a different side of the estate.

181. And were leases taken by every tenant on the other townland!—They were not.

182. Were they by some!—They were taken by some of them.

183. By how many of them, by half of them!—At least half, or more, than half.

184. With regard to the tenants, the half who did not take leases, did they remain tenants from year to year!—The leases were prepared for them at their own request, but they refused to pay the costs, and the leases remained in the office.

185. The leases then were prepared for all the tenants on that townland!—All the tenants who asked for leases.

186. I thought you told me leases were prepared for all the tenants!—Yes, they all asked for them on this townland.

187. And leases were prepared for them all!—Yes, leases were prepared for them all.

188. But some of them did not take out the leases—how many!—I think about three on each townland.

189. And have these three since remained as tenants from year to year!—They have my lord, the leases are prepared but they have not signed them.

190. They remain as tenants at the rents in the lease!—Yes, but they never signed the leases.

191. That is the case not only in this townland but in the other townland!—In the other townland there were a good many small tenants who would not get a lease because their holdings were too small—about £1 or £2 a year.

192. May I ask you what was any tenant on that occasion evicted!—Not one.

193. Or notices to quit served on them!—There was a notice to quit served on one in the other townland, only one.

194. Mr. LATTON.—What was the cause of the service on him!—He refused to pay the rent.

195. The increased rent!—The increased rent.

196. Do you know the man Dillane who is sitting down there—a tenant of the Knight of Glin!—I don't know him.

Jan 26, 1872.

Sergeant  
Hampshire.

Jan. 26, 1882.

Samuel  
Hempill.

217. Will you deny that he was threatened with eviction on that one occasion, when the tenants came in one by one?—What is his name?

218. Pat Dillon, who is sitting down there, a tenant of the Knight of Glin!—Is he on this townland?

219. Surely you ought to know—you the agent of the estate, will you undertake to say he was not threatened with eviction if he did not take out a lease?—I am certain there was no notice to quit but the one.

220. Mr. Atkinson.—Were you there when this lease was executed?—I don't think I was, if I was I would be a witness to it.

221. Judge O'HAGAN.—O'Leary I think witnessed it?—O'Leary witnessed it.

222. Mr. Sullivan.—Mr. Hempill, where were these leases prepared?—In Dublin.

223. Of course there was no such thing as a draft sent to the tenant?—No, they all knew they were to take leases usually given on the estate. There were I suppose fifty leases of the same kind on the estate already.

224. Mr. Lupton.—Am I right in saying that none

of the thirteen tenants who took out leases, had leases before?—They had not.

225. Mr. Atkinson.—There is a form of lease on the estate—they are all the same?—They are all the same.

226. Judge O'HAGAN.—How long before had that lease been prepared as an estate lease—how long is it in use?—I think since 1872 or 1873—Oh yes, my lord, a great deal longer, since immediately after the Knight came in for the estate in 1866. It was immediately after that. It was prepared after his father's death, or about the year 1867.

227. Mr. Atkinson.—Was there any alteration made in it subsequently in that form of lease that is there now?—That is the formal lease that was prepared originally and that was used as long as it lasted.

228. Do you mean to say there was a covenant in the lease to pay the whole of the Grand Jury cess?—No that is in writing.

229. Were there any of these leases taken out in the interval between 1867 and the time at which these leases were made?—Plenty of them by the other tenants.

The Knight of  
Glin.

230. Mr. Atkinson.—Do you remember going on these lands—you know the tenant Meade?—Yes.

231. Do you remember going on the lands in company with Mr. Hempill in 1875?—Yes.

232. The rent had been unchanged in this place for a considerable number of years?—I believe so.

233. Did you go in company with Mr. Hempill and McElliott to make a valuation?—Yes, I went principally to walk over the lands, yes, to make a valuation.

234. Did you see Meade there?—Yes, I believe so.

235. You arrived at a valuation?—Yes, we thought the lands were worth about £1 on acre.

236. That would be £14 5s t.—Yes.

237. Ultimately £13 was taken?—Yes.

238. Had you any conversation you can recollect with this particular man Meade on that occasion?—No particular conversation.

239. In reference to the lease or the increase of rent or anything of that sort?—No, I think not.

240. Do you remember subsequently his coming into your office at Glin Castle?—It was not exactly an office—he came into one of the rooms—it was used that day as an office.

241. And the other tenants came in that day also?—Yes.

242. Do you remember whether the tenants were called in one by one into the room or not?—I think they were.

243. Do you remember having a conversation with this man Meade as to increasing the rent?—Yes.

244. What was it?—I think I told him we had fixed £1 on acre on the land.

245. What did he say to that?—Well you know it is five years ago.

246. As far as you can charge your memory?—I believe he objected to the rent, saying it was a little high. He agreed to that £13 a year I think.

247. Now what was said about a lease?—To the best of my belief they were promised at that time if they wished to take them.

248. By you?—By me.

249. What did he say in reference to taking out a lease?—Well you know it is five years ago.

250. As near as you can get?—He said he would agree to the rent at £13 and to take a lease at thirty-one years.

251. Did you on that occasion say when he objected to pay £1 on acre—did you say there was a combination amongst them, that he should take it and that if

he did not, by God, that you would evict him?—Surely not—I never said it.

252. Did you say it on any occasion?—Never.

253. I suppose if you got the increased rent you were quite content?—Quite content—I did not care whether he took out a lease or not—I always advocated leases. I gave leases all round to my tenants where other people did not do it at all.

254. Long before the passing of the Land Act?—Long before, I always advocated leases on my property.

255. Judge O'HAGAN.—What was the date of that interview at your office?—I cannot exactly say the date.

256. Mr. Atkinson.—It was at all events after the valuation?—Yes, some few days after.

257. And before he took out the lease?—Before he took out the lease.

258. Judge O'HAGAN.—You have no entry by which you could fix the date?—Not the slightest. I never thought this would come on.

259. Mr. Lupton.—Was Mr. Hempill by?—Yes, Mr. Hempill was by and the sub-agent or clerk who is dead—O'Leary.

260. Judge O'HAGAN.—Have you any entry Mr. Hempill?

Mr. Hempill.—It must have been in the month of August, because I only stay at Glin Castle a week or ten days at any time.

261. And was the lease signed then?—No, not for twelve months afterwards.

262. Mr. Atkinson.—(To the Knight of Glin).—Whatever took place at the Castle was the only negotiation you had with him?—That was the only negotiation.

263. Did you on that occasion say any threat to evict him if he did not take the lease?—No, there are men in the townland who did not take the lease and they are there still.

264. Are they paying the increased rent?—They are—if they have paid it up lately.

265. Did you on that occasion threaten him or say you would evict him if he did not pay the increased rent?—Never.

266. You did not evict any person at that time?—I ejected no person upon this townland.

267. You did not eject one upon any townland?—There were one or two, there was a man ejected some years ago.

268. Was that in reference to this increase of rent?—No, not in reference to this townland, it was another master altogether.

269. You say he ultimately consented to pay the £13—Yes.

270. Did you in these negotiations in any way threaten to evict or eject him?—Never, I believe they all took the leases on this townland with the exception of one.

271. And who was that one?—It was Daniel Collins; they all agreed to the lease and all took them with the exception of this one, in fact in these days they were most anxious for leases.

Cross-examined by Mr. SULLIVAN.

272. Now I observe, sir, you do not claim to have a very accurate recollection of what took place on that occasion?—As far as a recollection as a man can, of five years standing.

273. Having a good many transactions of this kind on hand at the time?—Well yes, I regard two townlands.

274. And on the occasion this man came to Glin Castle how many other tenants had you an interview with?—I cannot say exactly the number of tenants, but nearly all the tenants on that townland and on the other townland.

275. How many would that be?—I cannot tell you the number.

276. Would it be forty?—There are about fifteen on each townland—about thirty is the number.

277. Upon this same day you had the interview with Mauds you saw and spoke to about thirty tenants?—Nearly that—all the tenants on the townlands of Killard and Killenny.

278. Did you see Dillane on that occasion?—Pat Dillane?—I think I did. There are four Dillanes on that townland.

279. Can you charge your memory with any single sentence that was spoken by you to Dillane on that occasion?—Pat Dillane?—I remember with regard to the rent he was told the amount of rent fixed. I do not know what it is for I have not looked in the books for a very long time.

280. Can you remember a single sentence spoken by him or you on that occasion?—I remember he agreed to the rent fixed, and they took out their lease—a joint lease for the four.

281. Can you repeat a single observation that Dillane made?—There were four Dillanes there.

282. That Dillane sitting there in Court?—No, I cannot, there are four Dillanes on this townland.

283. Did the tenants leave Glin Castle without agreeing to your terms and then return?—I think nearly all agreed to their terms.

284. Will you swear none of them went out without agreeing to your terms in the first instance?—I believe Mauds did, the rent was fixed at £13 and he afterwards agreed for £13.

285. Had the £13 been proposed to him before he went out?—No, I think not.

286. Was O'Leary present at all this?—Yes.

287. Was McElliott there?—I cannot swear about McElliott.

288. Cease now really?—I cannot swear, he had nothing to do with the fixing of rents.

289. This is a master depending on recollection, will you undertake to swear McElliott was there?—Surely I will not. To the best of my belief he was not there. There was only Mr. Henghill and my sub-agent.

290. Who was the subagent?—Daniel O'Leary. He was my sub agent, clerk, for years.

291. Do you know William and Thomas Dillane, in Killard?—Yes, surely.

292. Were they existed at that time?—No.

293. Either of them?—Never.

294. Were they served with notices?—I believe they were.

295. When?—I cannot exactly fix the date—but my agent can fix the date.

296. Was it not at that time or about that time?—I think it was in or about that time, I cannot fix the date.

277. Was it not in reference to the lease?—It was in reference to the increase of rent on the townland of Killard.

278. Made at that time?—Yes.

279. Now, you cannot remember any particular conversation with a tenant on the occasion you visited the land?—Surely I can not. There were thirty tenants, and if we had any conversation it was perfectly unuseable up to that time.

280. In fact they were delighted at having the rents raised?—We were on the very best terms up to the last two or three years.

281. Even the men with the notices to quit?—Even those men.

282. It was quite a friendly transaction?—It was a friendly transaction.

283. Mr. Atkinson.—It was after he returned, the decision as to the £13 was come to?—After he returned.

284. And then he agreed to the £13, £1 5s. less than the valuation in the first instance?—Yes.

285. Mr. Sullivan.—Have you any document here that would show the valuation?—No, I did not take any valuation.

286. Did you know the rent of any tenant whose holding you valued?—Surely not. I believed there was a lease in existence for years upon years, and it was several years after the expiration of that lease we went to revise the rents.

287. Judge O'HAGAN.—Tell me, Knight of Glin, where did you yourself execute this lease?—I either executed it in the office of Daniel O'Leary or at Glin Castle.

288. You had the office in Glin?—The office was in Glin.

289. Did you execute all the leases together?—No. I would come in and sign the lease conditions and have them witnessed by Daniel O'Leary, and then the tenant would come in afterwards and pay the amount of rent and sign it; it was witnessed by Daniel O'Leary.

290. You would not fix the particular time you signed it?—I generally get him to date the leases before my signature was to it.

291. Judge O'HAGAN.—The stamp was not issued from Dublin till the 9th of September; how do you account for the date on the stamp?

Mr. CONSIDERLY.—They were stamped afterwards.

WITNESS.—The 31st was the date I signed the leases, and I always got him to date them before I signed them.

292. Judge O'HAGAN.—Mr. Henghill, have you any means of showing what rent was paid by the tenant between August, 1875, and August, 1876?

Mr. HENGHILL.—I have not my book here, my lord, but I examined it before I came from Dublin and the increase was payable the 20th of March, 1876—there was none of it paid till August, 1876.

293. Mr. LITTON.—Do you collect the rent yearly or half-yearly?—Half-yearly.

294. Judge O'HAGAN.—Was there a hanging gale?—There was a hanging gale.

295. And the March gale, 1876. When were you paid that?—In August.

296. Mr. LITTON.—Was that at the rate reserved in the lease or the former rent?—At the former rent. The lease was to hold from March, and therefore the first year's increased rent was not till September, 1876.

297. Then, in fact, he did not come under the new rent until he executed the lease?—From the previous March.

298. Then the September rent of 1875 was paid according to the old rent?—According to the old rent and the March rent also of 1875.

299. Mr. Atkinson.—That is the rent due in March?—Yes.

300. Mr. LITTON.—Then from the time you went on the land, and shortly after entered into the agreement to pay £13, that £13 was not paid for a year after?—

JUN 16, 1876.  
The Knight of  
Glin.

Jan 26, 1882.  
The Knight of  
Glin.

Not until January, 1877, it did not begin to run until March, 1876.

301. Judge O'HAGAN.—What time in August was you down to receive the rents?—From the 20th to the 25th or thereabouts—the latter end of August.

302. Mr. Atkinson.—That was the time you made the valuation?—Yes; I went down generally in August to receive the previous March rent.

303. Judge O'HAGAN.—I suppose McEllicott is not here?—He is not, my lord.

Jan 27, 1882.  
Mr. Hemphill.

307. Mr. Sullivan.—I wish to know when the increased rent was paid—from what date?—The increased rent commenced the 25th March, 1876.

308. Mr. Atkinson.—What was the date of the lease?—31st of August, 1876.

309. Mr. Sullivan.—The increase of rent and the execution of the lease was the same?

Mr. Atkinson.—There was a half-year's rent at the increased rent became due 26th March, 1876.

Mr. Sullivan.—When was it first paid?

Mr. Atkinson.—It was paid the 5th September, 1876.

## JANUARY 27th, 1882.

Mr. HEMPHILL re-called.

311. Mr. Luttrell.—The increased rents began to run from the 25th March, 1876?

Mr. Atkinson.—No, from the 25th of September, 1875.

Judge O'HAGAN.—But a half year's rent at the increased rent fell due the 26th March, 1876.

Mr. Hemphill.—It was paid, 5th September, 1876.

Mr. Luttrell.—That is the time the lease was executed.

Mr. Atkinson.—Yes.

Mr. Sullivan.—It was subsequent to the execution of the lease, so that up to the time the man went for this lease he never had paid the increased rent.

## BEFORE MR. JUSTICE O'HAGAN, AND MR. COMMISSIONER LITTON, Q.C.

Jan 26, 1882.

### LIMERICK, JANUARY 25th and 27th, 1882.

DAVID GORMAN, AND OTHERS,	- - - - -	Tenants;
CHARLES WILMOT SMITH,	- - - - -	Landlord.

Mr. Cleary, instructed by Mr. O'Brien, appeared for the tenants; Mr. Atkinson, q.c., instructed by Mr. Beauchamp, for the landlord.

#### DAVID GORMAN v. CHARLES W. SMITH.

The lease in this case was dated 1st September, 1877, rent reserved £198, but with a proviso that if tenant observed all the covenants the landlord would accept £64.

David  
Gormans.

DAVID GORMAN sworn.—Examined by Mr. Cleary.

1. Were you a tenant under Mr. Smith before you signed this lease?—I was, sir.
2. A tenant from year to year?—I was, sir.
3. What was your rent before you took the lease?—The same as it is now?—£64.
4. Had you made improvements on the farm before you took the lease?—I had.
5. Tell us what you had done?—I had drained systems across at the bottom of it, and about an acre at the top I drained—that is all.
6. Did you build any houses on it?—We built a dwelling house and a cowhouse.
7. Were those things done by yourself or by your father?—The dwelling was done by my father, only a little that I stuck myself—the dwelling house was built by my father, and it was myself built the cowhouse.
8. When did your father die?—He is dead now eleven years last April.
9. Would you say what occurred about this lease—who came to you to ask you to take it?—Bill Creagh the bailiff.
10. What did Bill Creagh tell you?—He told me that if I didn't sign a lease I would be served with notice to quit before ten days—I cannot say now was it ten or twelve, but one or the other.
11. Was it in consequence of that you agreed to sign this lease?—It was.
12. Had you any attorney employed for you?—I had not, but I objected, when I came to the attorney, against it, and he asked me, "Why did you come?"—“Because I was pressed, sir,” said I.—“Who passed you?” said he.—“The bailiff did,” said I.
13. When you came to sign the lease was that the time you came to object to it?—It was.
14. Who was the attorney, was it Mr. Beauchamp?—It was.
15. Is that Mr. Beauchamp there (pointing to him in Court)?—Yes, sir. I would not know him.
16. Judge O'HAGAN.—What was the term in the lease?
17. Mr. Cleary.—Thirty-one years.
18. Cross examined by Mr. Atkinson, q.c.
19. How long were you in the farm?—I suppose up to fifty years—forty-eight or so.
20. How long is it since your father built the house?—He built some of it a few years after coming there, and then in some years more he built more.
21. And you did the draining?—Yes.
22. And you might have been turned out by the bailiff—did you know that? Did you not know that he could turn you out before you got your lease?—He could.

Jan 22, 1873  
David  
German.

21. Would you not like to have a lease that would prevent him turning you out—I didn't care much.

22. Why—I would be hauled off if I wouldn't be better off anywhere than I am there.

23. But you were always paying the same rent—I never paid it till he took it—it was never demanded from me.

24. How long were you paying the rent of £64 to Mr. Smith—I was not paying it, only a few years, first; and then he reduced it to £50, and then again, when the rest of the place fell in to him, he rose it to £64.

25. The old rent—and there never was any rise asked from you?—There was not since.

26. You were paying £64 four or five years before you got the lease, were you not—I was not.

27. How many years—I think I was not a year entirely.

28. Did you know Mr. Cox was the agent—I did, sir.

29. Had you ever any conversation with Mr. Cox about your lease?—Never, till the day he came down about it.

30. What day was that?—The 1st September.

31. Did he tell you you could have a lease if you wanted it?—He did not.

32. What did he say?—He didn't say anything, but to go up to the office to Mr. Beauchamp, and when I went up the lease was pulled out to be read, and I told them I didn't want that at all.

33. Was it Mr. Beauchamp's costs you objected to? You didn't like to pay the attorney?—I did not—I didn't want the lease at all.

34. Why?—“Why did you come?” said he.

35. Why were you objecting to a lease that didn't increase your rent?—I didn't want it.

36. Why?—Because my land was too dear, and I said I had less enough of it.

37. Did you say that to Mr. Cox?—I often said it to him. On the day he went out to value it he asked me what was the rent. I said thirty shillings. “Sandy,” said he, “it is enough on you.”

38. Was that the only place you had—you were living there?—I was.

39. And you didn't want to get a lease of your own holding without an increase of rent?—I didn't want a lease of it.

40. Though it was the only place you had to live on?—Yes.

41. And your wife and children were in the house?—Yes.

42. Will you tell me anything Mr. Cox ever said about taking out this lease?—I don't recollect anything at all.

43. Tell me anything your landlord ever said to you?—I could not—little conversation I ever had with him.

44. Now, Bill Creagh is the bailiff; you have paid no rent for the last two years—have you?—I did.

45. When? Is there not two years' rent due by you?—There is not, indeed.

46. How much?—There is a year's rent, and then another half year accruing.

47. Next March there will be two years due—is not that so?—It is not.

48. Next May there will be two year's rent due?—Yes, but the pay day used to be in August.

49. Are all the tenants in the same condition?—I cannot say.

50. Did the whole of you hunt Bill Creagh out of the place?—Never.

51. Have you him here as a witness?—I have not.

52. Do you know he is dismissed or resigned?—I do not know.

53. He is not about the place, at all events; he never went to warn you about rents—he knew better: what did Creagh tell you?—He told me that if I didn't go and take the lease——I said I would not. “You must,” said he, “and no thanks, and if you are not down next Saturday—that was Sunday—this is the fifth warning we are giving you—you will get a notice to quit in,” I can't say was it ten or twelve days he said; “so mind yourself, now.”

54. When you went to Mr. Cox you didn't tell him what Creagh had said?—I told it above in the attorney's office.

55. To whom—to Mr. Beauchamp? Do you mean to say you told that gentleman what Bill Creagh said?—I cannot swear it was that gentleman, but there were two of them.

56. Did you tell Mr. Cox what Bill Creagh had said to you?—I did not.

57. You had no talk with Mr. Cox about the lease at all?—I had not, until that day.

58. Did you go to Mr. Cox and say to him, “What made you send such a message to me by Creagh—that you would serve me with a notice to quit if I didn't agree to take a lease?”—No.

59. Was anybody by when Bill Creagh used that threat to you?—There was people inside in the shop.

60. Who were they?—A good many of them.

61. Are they here?—They are not.

#### DAVID KANE v. SAME LANDLORD.

DAVID KANE SWORN.

Examined by Mr. Clancy.

DAVID KANE.

1. Before this lease of 1st September, 1877, were you tenant from year to year under Mr. Smith?—Yes; myself and my mother.

2. Your father was tenant under him, I suppose?—He was.

3. What is the extent of your farm?—Something about twenty-eight Irish acres.

12. After the notice and ejection, did you agree to give the increase of rent?—I had to do it.

13. How much did he increase it to?—£56 7s.

4. Up to 1869 what rent did you pay?—£15 16s. 3d.

5. When, after 1869, did Mr. Smith demand an increase of rent?—I think he valued the land in 1870.

6. Were you served with this notice to quit [produced]?—I was not, sir; my mother was.

7. Judge O'HAGAN.—What is the date of that?—11th March, 1873.

8. Mr. Clancy.—And after that you were served with an ejection?—Yes.

9. And this ejection [produced] is dated October, 1873?—Yes.

10. Then, did he increase the rent?—He asked the increase of rent in 1870.

11. But you didn't give it to him till after the notice was served?—No.

14. The valuation is £16: when you settled with him in 1872, did he make you pay it all back from 1869?—He did; from the death of the late Lord Kingston.

15. After 1872, and down to the time of the lease, did you pay the £56 7s., or was there any other charge made?—I had to pay the back rent in 1873.

16. And then you continued paying on?—Yes.

17. Who came to you to ask you to take the lease?—Creagh.

18. Was that long before the lease was signed?—I think about six months from the first commencement of it.

19. What did Creagh say to you about signing the lease?—He told me it was as good for me to go and take a lease—that everyone had agreed to do so.

20. Judge O'HAGAN.—What did he say to you?—He said to me to go and take a lease; he came the first time and said, “Will you take a lease?” “I

JAN. 22, 1882.

David Kass.

think I have lease enough," said L. He came a second time and said, "The whole of them have signed to take leases, and don't you be the last."

21. Mr. Cleary.—Did he say anything more to you?—I said I would consider. He said to have me consider myself whether I would or not.

22. Did you go to Mr. Beauchamp's office afterwards?—We did.

23. With the other tenants?—Yes.

24. You had no professional adviser?—Never.

25. Did you ever get a draft of the lease?—Never.

26. You went to Mr. Beauchamp's office?—Yes.

27. How long were you there?—I suppose about an hour and a half.

28. Were you there with German?—I was not with German.

29. Were there other tenants there?—There was.

30. Before you went down to Limerick to sign the lease, had Mr. Smith made any statement to you about keeping you on the place?—He had; he said he never would accept me as tenant at all.

31. Did he say anything about leaving you on the land?—He said he would not have me as tenant at all; he said there was £5, an acre more offered for my land than the new rent.

Cross-examined by Mr. Atkinson, Q.C.

32. Had you the same farm in 1849 that you have now?—Yes; myself and my mother had.

33. Had you an old lease?—There was an old lease.

34. Have you got the old lease?—No.

35. You didn't bring it with you?—No.

### JOHN FITZGERALD, Tenant, v. SAME LANDLORD.

JOHN FITZGERALD, sworn.

John Fitzgerald.

1. Were you tenant from year to year of these lands before this lease?—Yes, sir.

2. Have you got your receipt here?—I have.

3. What rent did you pay before 1849?—£9 8s 4d. every half-year.

4. Was the rent increased on you after 1849?—It was, to £9 10s. half-yearly.

5. In what year was that, do you recollect?—1870.

6. You paid that rent until the lease was made. Who came to ask you to take a lease?—William Crough.

7. Was he then the bailiff on the estate?—He was.

8. Was he the man who had come to warn you to pay the rent during the previous year?—He was.

9. What did Crough say to you when he came to ask you to take a lease?—He asked me would I take a lease? I told him I didn't want it, that I had lease enough, and that I would consider whether I would take it or not. He came three days after, and asked me would I not take a lease or sign my name for it? I told him I would not. He came again in five days afterwards, and told me I would be the last on the list of Mr. Smith's tenants—that every one of them had given in their names for leases, and it would be better for me to do it than be black sheep among them. I told him if the whole of them had given in their names it would be better for me to do so too, and he took down my name.

10. Did he come to you again at all?—He did not, sir, after taking my name.

11. Did you go down then to Limerick?—I did, when we were sent for.

12. Who came to you?—William Crough.

13. What did he say to you?—He advised us that our leases were filled below, and to go down to Mr. Beauchamp's office, and we would get them there.

14. Did you say anything to him then?—I did not.

15. Did you go to Mr. Beauchamp's office?—I did.

16. Did you read the lease?—I did not. Mr. Beauchamp read part of it—himself and his clerk. I could not swear which—one or both.

36. Did you leave it at home?—There is no trace of it. It has melted away. My father had an old lease.

37. Was it at the expiration of that the place was revalued?—It was.

38. The conversation you had with Mr. Smith, was at the time then to quit was served?—It was after it.

39. Was it before the ejectment was served?—After it.

40. After he said he would never have you as a tenant, you were taken?—Yes.

41. Do you swear you had never spoken to Mr. Cox or Mr. Smith about a lease?—I never had.

42. Or to Mr. Beauchamp?—Never.

Judge O'HAGAN.—Did you read the lease before you signed it?—No, sir.

43. Was it read to you?—Mr. Beauchamp read part of it.

44. Did you know what rent you were owing under it?—Of course I did.

45. What was the rent under the lease?—£56 7s. was the rent, if we kept up the covenants.

46. Did Mr. Beauchamp read out the rent reserved by the lease?—He did; double the rent.

47. And you saw all that would be obliged by him I would accept it, as he said he would put us out.

Mr. Cleary.—What were you saying about putting you out?—Mr. Smith said he would not have me as tenant at all. I never got a receipt in my own name.

Judge O'HAGAN.—Since the lease, did you get a receipt in your own name?—No.

Cross-examined by Mr. Atkinson.

17. You had no attorney concerned for you?—No.

18. How long were you in the office altogether?—I suppose about an hour, or an hour and a quarter.

19. Were the other tenants there with you?—They were. We had not a long delay there, as soon as Mr. Cox came in to identify that we were the tenants.

20. How long was the clerk there reading the lease—how long did that occupy?—I don't think it took five minutes.

Cross-examined by Mr. Atkinson.

21. Did you hear Mr. Beauchamp explain the leases to the different tenants that were there?—I did.

22. Did you hear him tell them what rent was reserved and what rent they should pay if they kept their covenants—did you hear him telling them that?—Do what?

23. Did you hear him telling them how much rent was in the lease, and how much they would have to pay if they kept the covenants?—I did.

24. And he did that for yourself?—He did.

25. How many leases did you hear read that day?—I believe three or four. That was all that were there that day.

26. Did you go on more days than one?—Never.

27. While you were there you heard three or four different leases explained to the tenants?—It was.

28. And your own lease was explained?—It was.

29. Did not Mr. Beauchamp go through every covenant and explain the effect of it to you?—No, nor one-third of it.

30. Will you swear that?—I do.

31. Did you read it?—I did. I carried it home, and read it.

32. Will you recite any covenant in it that he did not explain to you, and that you found out when you went home?—I cannot mention it.

33. After you got the lease and went home, did you go back to him and say there were covenants in it that he did not explain?—I did not.

34. Did you go in again for them?—No, they were sent to the bailiff.

35. I suppose they had not been stamped?—They had been stamped.

36. When you found he had not read the covenants did you complain to anybody?—Not a word.

37. At all events he read out the rent that was reserved, and the rest that you were to pay, if you kept the covenants?—He did.

See 34, 35, 36  
John Fitzgerald

## JOHN KANE, Tenant, v. SAME LANDLORD.

Mr. Cleary said the lease in this case was dated 24th February, 1877; the double rent was £66 5s.

JOHN KANE SWORN. Examined by Mr. Cleary.

John Kane

1. You see that lease?—Yes.

2. Do you know the holding you occupy under that lease of the double rent of £66 5s., that would be £13 2s. 6d. single?—Yes, sir.

3. Before the lease, how did you hold it?—was it as tenant from year to year?—Yes, sir.

4. What rent did you pay for it before 1859?—£11 8s. 6d.

5. Was that rent increased after 1859?—It was when Mr. Smith went out on the place. In 1870 he increased the rent to £33, as you have it there.

6. Now, do you recollect who came to you to ask you to sign this lease?—Bill Creagh, the bailiff.

7. How long before February, 1877, was it?—He came very often to me.

8. When he came to you first and asked you to take the lease what did you say?—I said it was too dear. I didn't want a lease at all. I wouldn't take a lease.

9. Did he come to you a second time?—He did, and he said there was £100 offered for it, and £2 per acre, and that I would go out as sure as Adam Quince and David Quince went out.

10. Those were persons who had been evicted?—Yes. He came to me a few days after again and told me whatever fine Mr. Smith laid out on the land he had it to get from a neighbouring man, and for me to take the lease.

11. How long ago were the Quinces put out?—Two or three years before.

12. Did he come to you afterwards again?—He did, sir, and he brought a list of the leases. I got very much in dread, myself and my family, that we would be turned out, and I consented to sign it.

13. Did you go down then to Mr. Beauchamp's office?—He came to me then when he considered, I suppose, that the lease was prepared, and told me to go to Mr. Beauchamp's office. He read a letter from Mr. Beauchamp, and told me to go there and that I would get the lease.

14. Had you ever seen any draft of the lease?—Indeed I had not, nor a word about it.

15. When you went into Mr. Beauchamp's office what occurred there?—The lease was there. I thought he had only one lease, but Mr. Beauchamp told me there were two leases prepared for me. "Begone," said I, "that is a very dull thing, when I have no money to pay for the two leases." He told me then to borrow some money.

16. Was the lease read out to you?—Well, there were some parts of it and I could not understand what was the meaning of them. He read a few little words of it for me very quick.

17. Are you able to read and write?—I can, a little.

18. You can read print?—I can.

Cross-examined by Mr. Atkinson.

19. You are a very great simpleton—are you not?—Perhaps I am.

20. You have read the lease now, have you not?—I did not for two years I believe.

21. Will you tell us what part of it Mr. Beauchamp didn't read out to you?—I cannot tell you indeed.

22. Did he read out the rest to you?—Upon my oath I can't say.

23. Have you not come again and again to Mr. Cox to pay your rent, and been the spokesman for the

other tenants?—Mr. Cox never asked me to take a lease.

24. Have you not been the spokesman for the other tenants?—What, have I?

25. Have you not been spokesman for the other tenants in speaking to Mr. Cox?—I used to send the rent down from Mitchelstown by post.

26. Were you not the spokesman for yourself and other tenants on several occasions before this lease?—I never spoke a word to him about the lease.

27. Before the lease had you not a talk with Mr. Cox—speaking to him for yourself and the other tenants—I never spoke to him about the lease.

28. Dear me! What a simpleton you have all of a sudden become! Had you spoken to Mr. Cox about the contents of the farms, and getting a survey made of them?—He charged me for two years for an acre and thirty-four perches of the farm that I had not.

29. Were you speaking to him and telling him he ought to do something for you and the other tenants?—I told him he ought not to charge me for that acre and a quarter.

30. Did the other tenants ever select you as a spokesman?—No indeed.

31. Had your farm been surveyed before you got a lease?—It was, because I was paying for one acre and thirty-four perches too much, and I was not allowed a penny piece for it. I am £11 out of pocket.

32. Did you say you had no talk with Mr. Cox about the lease?—Never.

33. Nor with the landlord?—Never—I never wanted a lease.

34. You were charged no increased rent?—I was charged a great increase—it was raised from £11 8s. to £30.

35. Had you not an old lease at that time?—I had, till the Earl of Kingston died.

36. And when the old lease fell in the increased rent was put on you, and you were paying that for four or five years before the lease—now, you say you didn't know what was in the lease?—I did not.

37. Why did you object to take it?—Whatever Bill Creagh would say I should do it.

38. Why did you dislike it when you were getting thirty-five years of your farm without an increase of rent?—I didn't know the contents of the farm at all.

39. Why did you object to it?—did you ask anyone what the contents of the lease would be?—Not a word. I threw it into a box after coming home.

40. Creagh told you all the others had signed?—He told me unless I signed a lease out I would go.

41. Did you tell that to Mr. Cox at all?—I never spoke to him about it.

42. Where is Creagh?—I cannot tell you.

43. When did you see him last?—I didn't see him for three months.

44. You haven't paid my rent for the last two years?—I don't know.

45. Do you expect to be believed when you say you don't know whether you have paid any rent for the last two years?—I suppose I have some rent paid.

46. Have any one of you paid a penny for the last two years?—Oh, how do I know.

47. Was Creagh the bailiff?—He was.

48. Where did he live when he was bailiff?—I cannot tell you.

Jan 25, 1872, 10 a.m.  
John Keen.

49. You don't know where Creagh lived when he was bailiff over your own place?—I did, well.

50. Then why do you say you do not?—I don't know where he is now.

51. Was anybody by when he made this threat?—There was not, but when he would be about the place he would come to me and tell me to take a lease.

52. Did he say that from the time he came?—He told me what I told you before, that whatever fine Mr. Smith liked to lay on the land it was offered by a neighbouring man, and if you were wise you would go and get your lease and not lose your land. I got afraid when I saw neighbouring men put out,

53. What were they put out for?—I cannot tell.

54. Do you mean to say you thought you would be put out like Quane?—I did.

55. Quane was arrested on suspicion of shooting a man—sure you never did that to the landlord or agent?—William Creagh was like an agent entirely.

56. Did Mr. Beauchamp explain any of the lease to you?—Well, a few words of it.

57. Were you there long time?—Indeed I was not more than a few minutes.

58. Did you hear the other leases read?—No, not more than my own.

59. Mr. Cleary.—Did you make any improvements on this farm yourself?—I did—I drained every perch of it.

60. Did you erect any buildings?—I built a cow house; and a house that fell down, I built up again and thatched it.

61. Mr. Atkinson.—When was this?—Last summer twelve months.

62. Did you do anything before you got the house?—Indeed I did—I am draining it always.

63. Mr. Latton.—When did you pay for the lease?—In 1877 I suppose when it was written.

Mr. Beauchamp said the lease was paid for on the day it was executed.

64. Judge O'Hagan.—What is the date of the second lease?—The same.

65. When is the rent of this holding?—[Mr. Cleary], £34 13s. is the double rent.

66. What was the old rent of this farm?—[Witness], £14 1s. I believe.

67. Had you made any improvements upon it?—I did—I drained it. It was all wet.

68. Did you put any buildings on it?—I did not, but I gave it earth and top-dressed it.

Mr. Latton.—Do the lands in the second lease adjoin the other?—They do—only across the road.

### JOHN RYORDAN, Tenant, v. SAME LANDLORD.

Mr. Cleary said the lease in this case was dated 24th February, 1877.

JOHN RYORDAN sworn,

Examined by Mr. Cleary.

1. Are you the son of John Ryordan the lessee in this lease?—I am.

2. Your father is an old man?—He is between eighty and ninety years of age.

3. He is not able to come here as a witness?—No.

4. Were you living with your father since 1869?—I was.

5. What rent did you pay for this holding in 1869?—We took part of it since 1869.

6. You had a portion of it in 1869—what rent did you pay for it then?—£20 6s. was the year's rent.

7. You took some additional land since—how many acres?—Seven and a half acres.

8. What was the rent he put upon the seven and a half acres when you took it?—I believe it was £1 an acre was paid before Mr. Smith made the rise and he rose it to £1 8s. 6d.; and before the drainage it was only paying 16s. I believe.

9. Taking the two holdings did he increase the rent after 1869?—He did—he increased it from £20 6s. to £35 12s. 6d.

10. Had your father done any drainage upon this farm?—He did a share of drainage on his own farm.

11. The original holding?—Yes—not a great deal.

12. This lease includes the original holding and the seven acres you got in 1869?—Yes, sir.

13. Was there a dwelling-house on this farm?—On my take?

14. No, but on the other take?—My father built a dwelling-house and out offices.

15. Was it a slated or a thatched house?—Thatched.

16. Did he make fences?—He did.

17. And drain it where it required to be drained?—Yes, and measured it with dung.

18. Did any of it require to be reclaimed or grubbed up?—It was all reclaimed before it came into the family, or after it came in.

19. Was it Creagh came to you about the lease?—I was present with my father in our own yard when Mr. Creagh came and told my father Mr. Smith was giving leases to all his tenants—that he had been with the whole of the tenants, and they had agreed to take leases with one exception, and that exception was no guide to him or any other man that would keep his land, because he said that the exception was not able to pay for his land, and didn't want a lease; and he

said it was as well for my father not to be behind the rest. My father said he would consider on it; and it was well for my father that he would not be behind the rest, because Mr. Cox told me on one or two occasions, and one time in presence of my father, that there had been several very bad characters given of me. I told Mr. Cox there were the Police and to refer to them for a character of me; and Mr. Cox said, "Ryordan, often there was a bad character given of you, and there were also very good characters too."

20. Did your father consider it?—Yes—Creagh came afterwards, and my father gave down his name.

21. Did Creagh say anything the second time?—I don't know—I was not listening to him.

22. Did your father go down to Limerick then?—Not until he was told the lease was prepared for him.

23. Who told him that?—William Creagh.

24. Did any draft of the lease come to your father before he went down in any shape or form?—Never.

25. Was he ever told what was to be in the lease?—Never a word.

26. Did you go with him to Limerick?—I did.

27. Did you go to Mr. Beauchamp's office with him?—I did.

28. Had your father any attorney employed about this lease?—No, sir.

29. You went with him to Mr. Beauchamp's office?—Yes—I was in the office with him.

30. Did you hear Mr. Beauchamp or his clerk, read the lease or any portion of it?—I did, and when I saw the tenancy changed and there was some fine gas in the way—when the tenancy was changed from March to May I raised my voice and said we would not take the lease, and there was a month's rent charged in addition. We were tenants in March and September, and we were charged to May and November, and there was a month's rent charged in addition. None of us could understand it; and I was the person deputed to be sent down to Mr. Cox's office to bring him up to Mr. Beauchamp, and Mr. Cox seemed to be ignorant of the matter. The whole of the tenantry that were in the office were confused about it; and I don't believe a second man of them understood much about the covenants in the lease.

31. Your father didn't understand much about them, any way?—No, sir, nor did I.

Cross-examined by Mr. Atkinson.

32. Will you tell us any of the covenants you didn't understand?—The changing of the tenancy—I partly guessed there was something in it peculiar.

33. Was that the only one?—That excited me, at all events.

34. I consider the gales days being changed from March and September, to May and November gave you a month's rent, instead of taking it from you?—I didn't understand it.

35. Mr. Cleary.—Had you to pay a month's rent down on the spot?—It had to be paid in the next half-year.

36. Mr. Atkinson.—And then instead of having to pay your rent in March, you had to pay it in May, and in November instead of September?—Yes.

37. Will you tell us any other covenants you did not understand?—You were sharp enough to detect that?—Yes, it excited me, too.

38. Tell us any other covenant you didn't understand?—I do not know.

39. You know there are several covenants in the lease that are of little use—that the tenants should not sell straw or take a second crop without measure—don't you know perfectly well that your attention was called to every covenant in the lease by Mr. Beauchamp—every one of them?—I don't remember that, on my oath, I do not think I understood two covenants in the lease. In fact we were so much excited we didn't know what he was reading or saying.

40. When you read the lease when you went home, why didn't you go back and say something about the way you were taken in?—It was a long time till we got the lease.

#### JOHN ROCHE, Tenant, v. SAME LANDLORD.

Mr. Cleary said the lease in this case was dated 31st March, 1877.

John Roche, sworn. Examined by Mr. Cleary.

John Roche.

1. Before this lease was made, I presume you were tenant from year to year?—Yes, I was tenant from year to year in 1877.

2. You had the whole of it since 1869?—Yes.

3. You had a lease of a portion of it before 1869?—Yes.

4. What did you pay for the portion you had under lease before 1869?—I believe £32 and something.

5. What did you pay for the portion you had without the lease?—£1 an acre.

6. How many acres were in it?—Eleven acres.

7. Was the rent raised by Mr. Smith about the year 1870?—Yes.

8. To what figure?—He sent a sheet to me at £3 an acre, and as I did not accept it he raised it to £2 5s.

9. Did he serve you with notice to quit?—He pledged me his word and honour that any man he would serve he would put him out; and I believed him, and submitted.

10. After you submitted to the increase and paid it for several years, who came to you about the lease?—William Cragh.

11. The lease is dated 31st March, 1877—can you say how long before that date William Cragh came to you?—I believe two years or something like that. I believe about a year or two. He told me there was a lease entered for me. I told him I did not want a lease.

12. Did he come to you several times?—I met him often.

13. What did he say?—He told me the lease was £60 and that I should take it now.

14. What did you say to that?—I said I did not want a lease—that Mr. Cox and Mr. Smith promised me that they would give me a rise and fall with the trees and would allow me for loss of cutting. They

41. Did you ever make any remonstrance, either to the landlord, or his agent, or Mr. Beauchamp, about it?—I did not.

42. You didn't ever complain to Bill Cragh?—I don't remember.

43. When did your father build the house?—I cannot say.

44. Why did you say it a while ago?—I knew he did build it from what I heard him say.

45. Before you were born, was it?—No—before I was born some of it was built.

46. Were the drains made before you were born?—I made some of the drains myself.

47. How long ago?—Some of them two years ago.

48. That is since the lease?—Yes; and some of them seven years before that, and some of them farther back.

49. Have you made any calculation of what they cost?—I have not—I never measured them.

Mr. Cleary.—There is a covenant in your lease that you are not to take two corn crops off any field in succession—do you recollect having a corn crop one year in a field and intending next year to put potatoes into it?—I do.

50. At the time you were going to put the potatoes down was it too wet?—It was, sir.

51. Did you want them to put oats in and did they refuse to allow you?—They did, and I had to leave the field as it was, two years, cut up by the stock till I turned it up again.

52. Mr. Atkinson.—Who prevented you doing it?—Bill Cragh. He had authority from Mr. Cox.

53. Did he show you any authority?—His words were all we had.

JAN. 25, 1872  
John Roche.

32. When was the drainage done?—There was about three acres opened by the Board of Works.

33. When was the drainage done by the Board of Works—how long ago?—There is a receipt there—in the year 1838 or 1837. I have been paying £3 a year for it all along.

Cross-examined by Mr. Atkinson.

34. When did your father build this house—how long ago?—After I being born.

35. You have been telling us with the greatest confidence all about it—I saw the buildings done—most of them, but the dwelling-house.

36. Was the dwelling house built before you were born?—It was not.

37. Were not you born on the lands?—I am told I was.

38. Must you not have been born in some house?—The lease specifies the buildings.

39. Are they not fifty years built?—They are, some of them.

40. What age are the rest?—Some of them are twenty-five years old, and I built some myself.

41. They were built while you had this lease from the Earl of Kingston at the old rent?—Yes.

42. You had frequent conversations with Mr. Cox?—Yes.

43. And what Mr. Smith told you in 1870, was that any man he would serve with a notice to quit—any man that drove him to serve a notice—he would put him out?—Yes. I cannot say was it in 1870 or 1871.

44. Since he became landlord of the estate, is it not the fact that he only evicted two tenants out of forty?—Three I think.

45. Had you any conversation with Mr. Cox about a lease?—No.

46. Did he tell you at any time you wished for a lease with a race of rent you might get it?—I don't think so.

47. Might he have told you so?—I don't know.

48. Could you have forgotten it?—I often told him things in conversation.

49. Did he tell you that?—I swear he did not—not in my opinion.

50. Will you contradict him if he swears he did?—I will not.

51. Did you hear him telling the other tenants that any man that wished for a lease might get it?—No.

52. There was not much of rent put on you?—Mr. Cox sent me a sheet at £2 an acre, and he then put on £3 3s.

53. I am speaking of 1877; what was your great objection to taking a lease at the same rent?—I was in dread I would be served.

54. Neither Mr. Smith nor Mr. Cox made any threat of serving you—was there any talk about being served?—I cannot say. Mr. Cox said, "Now, Roche, will you go home, sit down by your fire-side, and consider what is a fair rent, and write it down to me."

55. That was in 1872?—Yes.

56. You were never threatened to be put out by any of them?—No, except by Bill Creagh.

57. Did it ever occur to you to go and ask Mr. Cox, whom you knew and were always so civil with, about any message you got from Creagh?—It was no use asking him. I asked him many things and he would not answer me. If I could not pay the money,

he would say, "go to Mr. Smith, I have nothing to do with you."

58. But you never went to them about Creagh's threats?—No.

59. What part of the lease did Mr. Beauchamp not read to you?—I don't think he read any of it. I dare say he would have read it if I asked him. I read over part of it myself.

60. What part took you by surprise?—That no second crop was to be taken from my field.

61. Did you object to that?—I think I did. I asked Mr. Beauchamp and Mr. Cox must I pay for this lease, if I did not sign it.

62. Did you object to any particular part of it?—No.

63. Did you read it sufficiently to come down to the place where you were not to put two crops of corn in succession?—I think not.

64. Did you read the rest?—I did.

65. Judge O'HAGAN.—You know you would have a double rent put upon you?—Yes, I know that.

66. Mr. Atkinson.—Did you read down the lease the whole way until you came to where you were not to put in two corn crops?—No, I think not.

67. But you had it in your fist, if you liked to read it?—Yes, I saw part of it.

68. Judge O'HAGAN.—Was the first communication you ever had about the lease this one of Creagh calling on you and talking to you—was that the very first word?—I think it was.

69. Was anything said about a lease before that?—No, except Mr. Cox saying we could get leases.

70. Were there any tenants of Mr. Smith's at that time that did not take out leases?—I believe there were some yet.

71. That got no leases?—Yes.

72. They would not take them?—Yes.

73. Are they on the lands still—they were not turned out?—No.

74. Supposing you had chosen to stay as you were, and had taken out no lease, would you have been turned out?—I don't know. He pledged his word to me—

75. That was in 1872. Supposing in 1877 you said, "I don't want a lease at all," would you have been turned out?—I don't know.

76. Was there any circular sent round to the tenants from Mr. Smith or Mr. Cox about their taking out leases?—I did not see it.

77. And the whole thing was what occurred about Bill Creagh?—Yes. I would not sign at all only my father was an old man, bedridden at the time.

78. Mr. LITTON.—Where was your landlord living—at Ballymally, near Bruff. He was in the county Clare sometimes, at Killurin. We saw him often enough.

79. Judge O'HAGAN.—Have you any information where Creagh is now?—He is at home now at his place.

80. Where is that?—It is about a mile from my house.

81. And that is near Bruff?—No, it is on the same property that I live on.

Mr. GARDEN.—About six miles from Mitchelstown.

Judge O'HAGAN.—Has neither party thought of bringing Creagh here?

Mr. Atkinson.—This comes on us entirely by surprise. Creagh resigned a very profitable bailiff's place a short time ago.

Mr. WILLIAM SIDNEY COX, Esq., examined by Mr. Atkinson.

1. When first did Mr. Smith come into possession of this place?—I could not tell you.

2. Now, your first communication with him was when he employed you to make a valuation of this place?—Yes.

3. When was that?—I was on the lands on the very day the Land Act of 1870 came into operation—the 1st and 2nd August, 1870.

4. The old leases had fallen in about that period?—They had, as well as I remember, a year or two previous—and I heard Mr. Smith say as there was Land Bill before the country, that until the Act was passed he would make no change in the condition of the tenantry.

5. As soon as the Act was passed you went to make a valuation?—Quite so.

5. Did you make a valuation of these different farms?—I did.

7. Was it on that valuation the rents were raised?—It was; but Mr. Smith sometimes slightly increased my valuation.

8. In the main was it a fair and just rent?—It was.

9. When did you become agent of the estate?—In November, 1870. The valuation was made in the early days of August, and in November Mr. Smith asked me to take up his agency for a short time as he was going to the continent with a sick daughter.

10. And from that time have you had the management entirely in your own hands?—I have, up to May last.

11. I believe you ceased to be agent about May last?—Yes.

12. Now, were those rents paid by the tenants from the time they were increased up to 1877?—They were? and punctually and well paid.

13. Had you frequent conversations with these men who have been examined?—I had.

14. What were the subjects of these conversations?—The subjects were various. One man would tell me he had lost a cow, or that he wanted a well sunk to water the place better; but the principal matter of the conversations was on the subject of leases.

15. What did they say about leases?—That they would be anxious to get leases—I would swear to these men that were here, each of them.

16. To begin with Gorman: have you had a conversation with Gorman with reference to a lease?—The subject of giving leases was under consideration a long time. Mr. Smith's instructions to me were these—

17. Judge O'HAGAN.—You are asked as to your conversations with these men: do you remember having any conversation with David Gorman?—I do, but I cannot give the date. I can give the substance of the conversation. The substance of the conversation was this; that to him, as I said to other men, that every one of them who wished for a lease could have it, that I would have a survey made of their respective holdings, and the public roads and what might be considered waste deducted from the acreage they had hitherto been charged with, and those who assented—

18. What did Gorman say?—The reply they all made, though not exactly in the same terms, was that they would be anxious to get leases. On the strength of that I had surveys made. There are forty-four tenants, I believe only seventeen desired to have leases and they got them.

19. Mr. Atkinson.—What became of the rest: are they there still?—Yes.

20. Now, those conversations, of course, were before the surveys were made?—Yes.

21. And in pursuance of that were surveys made?—They were. I kept their names together, until I got what I believed to be the list of those who desired to have leases; and I then got their holdings surveyed together.

22. Judge O'HAGAN.—Do I understand the only holdings surveyed were those of the seventeen tenants who desired to have leases?—That is so.

23. Mr. Atkinson.—Have you any written memorandum of their names by which you can refresh your memory?—I hardly think I have, because when I got the surveys, and sent it up to Dublin to be marked on the leases, I fancy I sent the memorandum up to Messrs. Kelly and Lloyd.

24. In pursuance of those conversations did you send instructions to Kelly and Lloyd to prepare the leases?—I did.

25. And those leases were drawn accordingly by Kelly and Lloyd and sent down for execution?—They were.

26. Had you more conversations with Gorman than was in reference to the lease?—I had—I won't say with reference to the lease, but about the farm.

27. Who was William Creagh?—A land bailiff on the estate.

28. Did you ever directly or indirectly authorize Creagh to threaten Gorman or any other tenant to come in and take leases?—Certainly not; but I had letters from Creagh giving me the names of those who desired to take leases.

29. Do you remember whether Gorman consented to yourself or not in your conversation with him?—I do not.

30. Did any of them ever complain to you as to Creagh having made a threat, or having said they would be evicted unless they took leases?—I never heard a word about it until this afternoon.

31. Did you ever threaten to evict them?—Never.

32. Did you ever say anything to them with reference to a notice to quit?—Certainly not.

33. I see in all those leases they have only to pay half the county cess?—When the leases came to the office of Mr. Beauchamp, in Limerick, for the signature of the tenants I wrote to the late bailiff to inform him of the fact and to let the tenants know the leases were there for them to come down and sign.

34. Were you present when any of them came there to sign?—Yes; my signatures are to all those leases, I think, as witness.

35. Did you hear them read to those people before signing?—In the greater number of cases I heard the particulars read out to them, but some of them had arrived before I did, and to save time Mr. Beauchamp's clerk read them.

36. Can you charge your memory whether Gorman's was read over in your presence?—I cannot; but I witnessed them all because I had to identify the tenants.

37. Has Creagh ceased to be bailiff?—He had not up to May last to my knowledge, but I understand he has since. I resigned the agency of my own free will and several.

38. Now, the next is David Kane; had you any conversation with him?—I had with reference to a lease.

39. What occurred between you and David Kane with reference to a lease?—He assented.

40. Did you mention to him that he could get a lease if he wished for it?—I did. Every tenant on the estate was informed that he could get a lease.

41. Who informed them?—I informed them all myself with the exception of a few squatters. The tenants used to come in batches to me. Sometimes the great bulk of them would come on one day, and a few others on another day, but it was thoroughly understood that the leases would be given.

42. When they came in to pay their rent—this man among the others—did you mention to them that they could get leases?—Distinctly; if all the tenants on the estate were the contrary I would say so.

43. Seventeen tenants took out leases and the remaining ones are there still?—Yes.

44. Was there ever a notice to quit served?—Not to my knowledge.

45. There was no increase of rent, as we have heard, and they only pay half the county cess?—Yes.

46. Were they paying the whole county cess up to the time they got the leases?—I don't think so. I think in my valuation they were allowed half the county cess.

47. Go on now to the next—John Fitzgerald—had you a conversation also with him?—I had. I had conversations with every tenant on the estate.

48. With reference to leases?—Yes, except those few squatters.

49. The same statement applies, I suppose, to John Kane?—It does.

50. And Davoren?—I don't know Davoren.

51. No—he is an assignee. To Riceran and Rocket—Yes—to Riceran and Rocket.

52. Did you see old Kane; how very simple he looked on the table?—He is one of the most "canny" men on the whole place.

53. Has he come to you as spokesman for the others?—Yes, and was always grumbling. You heard him

Jan. 22, 1878.  
Mr. William  
Sidney Cox.,

Dec 25, 1878.

Mr. William  
Shanley Cox.

lying stress, and I believe properly so, about being charged excessive land, and I impressed on him that at any time he wished a survey would be made, and there was a survey made, and it was found he had been paying for too much land, and there was怨 taken out.

54. I suppose the same remark applies to him. You never said anything to him about a notice to quit?—Not a sentence.

55. Nor about being evicted?—Neither one or the other—nor to any tenant on the estate—and they paid their rents fairly well and punctually.

56. And you never gave Crough authority to do anything of the kind?—None whatever. I had no authority myself.

57. Did any of them make any complaint to you?—Not the slightest. Up to a certain period it appeared to me there was a most friendly feeling existing between Crough and every other tenant on the property. They complained much more of little feuds amongst themselves. I have had to give evidence here before the Chairman in such cases.

58. But you were on good terms with them, and there was nothing to prevent them complaining to you?—Nothing. I don't remember having ever received an insulting word from them.

Cross-examined by Mr. Cleary.

59. Is Mr. Smith here?—Is he in Limerick here?

60. Yes!—Not to my knowledge. I understand from inquiries I have made to-day that he is in the south of France.

Mr. Beauchamp.—Mr. Smith's son was delicate and he went to the south of France with him. His son has since died there.

61. When did you see Mr. Smith last?—Certainly not for two or three months. Let me see now. I don't think I have seen Mr. Smith these six months.

62. Did you say you didn't know whether he was in town to day?—I do not, of my own knowledge—but I heard from my solicitor to-day that he was in the south of France. Before I came into court I had been away for the last ten days, and did not know whether Mr. Smith was in England or Ireland, or on the Continent, or where he was.

63. Mr. Smith lives within a few miles of the lands?—Eighteen miles.

64. How far does Crough, the bailiff, live from Mr. Smith's residence?—About the same distance. He resides on Mr. Smith's property at Cullane.

65. Was it Mr. Smith or you appointed Crough to be bailiff?—On my appointment to the agency Crough was bailiff, and continued so.

66. Was it Mr. Smith appointed him?—I do not know.

67. Do you believe it was Mr. Smith appointed him bailiff?—I should say so.

68. Was Crough in the habit of going to Mr. Smith's residence in reference to the property, and common eating with him directly?—He may have gone there from time to time without my knowledge.

69. Don't you believe he did?—I do not. The correspondence about the property was carried on principally by letter between Mr. Crough and myself.

70. Will you undertake to swear that Mr. Smith never gave directions to Crough to make communications to the tenants about those leases?—Do you think I can make a fool as to swear anything of the kind.

71. Used Mr. Smith go to see the property?—Not hardly. He has been out of the country.

72. Until 1875 or 1876 used he go there to see the property himself?—I cannot swear that he did not, but my belief is that he did not go frequently.

73. Did he go once a year?—I don't think he did.

74. Did you go to see the property?—Not once a year.

75. Did you once in two years?—Not for the last few years.

76. When were you appointed?—In November, 1870.

77. We will assume you went pretty regularly for the first few years—from 1873 to 1880 how often were you upon the property?—For the first few years I went pretty regularly. When this land business sprang up they held mass meetings there, and Mr. Smith had to get an iron hat, and his bailiff was fined at.

78. From 1873 to 1878 how often were you on the property?—I don't think from 1874 or thereabouts I have been on the land since.

79. How often were you on the land between 1877 and 1874?—I cannot say.

Judge O'HAGAN.—Where did you live in 1877?—In Limerick.

81. Was it in Limerick; the interviews between you and the tenants took place?—It was the greater number of them; they have also spoken to me who on the lands at Cullane.

82. But you were not on the lands since 1874?—I was there before.

83. Mr. Cleary.—Were you shown a notice served on the landlord here by the tenants to have any leases produced that were written by Mr. Smith to Crough, the bailiff?—I was not.

84. Did Mr. Beauchamp inquire from you whether you wrote any letters to Crough?—I don't remember, but he must have been thoroughly aware. I used to tell Mr. Beauchamp that I had written to Crough on different matters from time to time.

85. Have you any doubt that Mr. Smith himself took an interest in this property, and in everything going on upon it?—He was a great deal out of the country, and thoroughly disgusted with the way things were going on.

86. You say you don't know how often he was on the estate from 1870 to 1877?—I do not.

87. Or whether he was on the estate once or twice a year?—I am sure he was not, because he was out of the country a good deal.

88. Are you able to say he was so often out of the country that he could not have gone to see his property once a year?—I think so; because I was in correspondence with him.

89. You could not undertake to say whether Mr. Smith was in the country in 1877?—I cannot say.

Mr. Beauchamp.—When he executed the leases they were executed in your presence.

90. Judge O'HAGAN.—I think you witnessed his signature?—I cannot remember. I will recognise my signature easily enough, and Mr. Smith's signature, which is a penning one.

91. Cross-examined.—[Witness is shown lease]. Have you any doubt now that before this lease was signed, Mr. Smith was in the country?—None.

92. When did Mr. Smith leave the country for the south of France?—I am not aware.

93. Nor you cannot say whether Crough, the bailiff, went to Mr. Smith's residence in 1877 before the lease was signed?—I cannot.

94. Nor whether he got directions from Mr. Smith?—I cannot say.

95. You say you told Crough he could get a lease? I did.

96. In what year?—I cannot tell you. The matter was going on for years.

97. Can you say whether it was in 1872, 1873, 1874, or 1875?—No.

98. Then, it might have been as far back as 1873?—It might.

99. And the same answer applies to the next—Just so.

100. Now, Mr. Cox, did you ever see a draft of that lease before you went to witness the signature of it?—I am not aware that I did.

101. Did you ever see the lease itself before the tenants signed it?—No, I heard portions of it read to the tenants.

102. Was it you gave Mr. Beauchamp instructions to prepare the leases?—They were not prepared by Mr. Beauchamp.

103. Was it you gave instructions to Messrs. Kelly and Lloyd to prepare them?—Mr. Smith may have given them verbal instructions.

104. Is this not you gave the instructions?—No. I sent up the names and the maps to be attached to the leases.

105. Did you get a letter from Kelly and Lloyd to send them the names of the tenants?—I cannot tell you whether it was from Kelly and Lloyd or from Mr. Smith.

106. Have you the letter?—I have not a single document with me, I didn't know I would be here to day—it was all by chance.

107. Judge O'HAGAN.—Are those documents in existence?—Any letters I have are in my office in the city.

108. Mr. Cleary.—You say you have a letter from Mr. Smith or from Kelly and Lloyd asking you to send the names to Kelly and Lloyd?—I must have got instructions from somebody.

109. Is this your evidence that you did not employ Kelly and Lloyd?—Certainly not.

110. You did not instruct them or tell them what to put in the leases?—I did not.

111. You did nothing more than furnish them with the names of the tenants?—Nothing more.

112. Before the leases came down did Kelly and Lloyd send you a draft of them to approve of the estate?—I fancy not, but I would not swear positively.

113. When you look at your documents will you be able to tell us to-morrow whether Kelly and Lloyd ever sent you a draft for approval?—I will be able to tell you.

114. How long before the execution of the leases was it that you sent the names to Kelly and Lloyd?—I cannot tell you.

115. Judge O'HAGAN.—You say the conversation between you and Gannon, when you told him he might have a lease, may have been so far back as 1872?—I cannot say in what year it was.

116. Are you able to state anything of your own knowledge with respect to the transactions in the taking out of the leases? Do you know anything about it, really?—The only thing I know about it is that the leases lay for a long time in Mr. Beauchamp's office, and some of the tenants, I cannot tell you which, remonstrated with me with regard to having to pay the costs of the leases.

117. Do you know who these tenants were?—I do not.

118. Could you in any way fix who the tenants were who remonstrated?—I could not, my lord.

119. They remonstrated about the costs of the leases, but did it strike you then that any tenant who desired to have a lease, remonstrated about the cost of the lease?—They did not lead me to suppose that they had any objection to taking the lease, only for the costs.

120. Would it not be inconsistent that a man who desired to have a lease, should remonstrate about having to pay the costs of it, the custom being the tenant should pay the costs?—They knew the leases were made out and that they could get them at any time by paying for them.

121. You cannot tell who the men were that remonstrated?—I cannot.

122. Mr. Cleary.—Did you ever know a tenant who was anxious to get a lease, remonstrate at having to pay the attorney who drew it?—Frequently.

123. Mr. Atkinson.—Why didn't you go to the lands?—For this reason—I was in terror of my life. There was an iron bar on there.

124. Judge O'HAGAN.—Was that so far back as 1877?—I believe it was so in 1875. Mr. Smith, who lived twenty miles from it, had his place guarded by police. There was a dispute with one of the tenants—not any of the men who have been examined.

125. Mr. Cleary.—Did you not tell Mr. Atkinson on your direct examination that the most friendly relations subsisted between you and the tenants?—Quite so.

126. And now you give us a reason for not visiting the lands that you were in terror of your life?—That one man that was evicted.

127. Do you really say that you were afraid to go on the lands in open daylight because there was one man who had hostile intentions against you?—I do, indeed.

128. And that was the only reason—this one man?—He and his associates.

129. When was he evicted?—I cannot tell you now.

130. Was he not evicted in 1870?—I should not care to pass by his place to-morrow if he knew I was there.

131. Was not that man evicted in 1870?—I cannot tell you now, I can tell you to-morrow.

The Judge intimated an opinion that Creagh ought to be produced.

Mr. Cleary offered on behalf of the tenants that they would serve a subpoena upon him if the landlord desired it.

Adjourned.

## FRIDAY, JANUARY 27th, 1882.

Cross-examination of Mr. W. S. Cox resumed.

132. Mr. Cleary.—Mr. Cox, you said you would give me the date of the eviction of the tenant—what was his name?—Quane.

133. Can you give me the date of his eviction?—1872.

134. Where is he living since?—I believe in the town of Tipperary.

135. How far is Tipperary from these lands?—speaking roughly, about twelve miles.

136. Have you been in the house of Quane in Tipperary since his eviction?—I have.

137. Have you been frequently in his house since 1872?—Twice.

138. Only twice?—Only twice.

139. Have you driven with him through the country?—I have not.

140. Upon no occasion?—Upon no occasion.

141. Or walked with him through the country?—Nor walked with him through the country. I have met him on the road—he travelling his way, and I travelling mine.

142. Now, Mr. Cox, be good enough to tell me

where it was you saw Mr. Smith execute that lease (German's lease)?—My belief is that it was in Mr. Beauchamp's office in the city.

143. The lease is dated 1st September, 1877, and purports to be signed by Mr. Smith on that day?—I don't think it was.

144. This is the signature of Mr. Smith which you have attested as of the 1st September, 1877?—I don't say that at all—that is simply witnessing the signature of Mr. Smith. I don't care about the date at all.

145. It purports to be signed, sealed, and delivered on 1st September, 1877, by Mr. Smith—where did you see Mr. Smith sign, seal, and deliver it?—I believe in the office of Mr. Beauchamp in this city.

146. Are you certain you saw him sign, seal, and deliver it at all?—I saw him sign it; I don't know what you mean technically by "seal and deliver."

147. When did he sign it?—I cannot say; but I am perfectly certain I never wrote my name attesting his signature if I was not present.

148. Was Mr. Beauchamp present?—I believe so.

149. Can you say that it was at all in 1877 that

JAN. 27, 1882.  
Mr. William  
Skelton Cox.

Jan 21, 1883  
Mr. William  
Beauchamp Cox.

you saw Mr. Smith sign it—I cannot. As a matter of fact the leases were not signed by tenant and landlord on the same day.

150. You say he signed it in Mr. Beauchamp's office?—That is my recollection.

151. You cannot say what day it was?—I cannot.

152. Now, here is a lease of 24th February, the lease to John Kane?—The same remark applies to each of them.

153. Here is Mr. Smith's signature to it—where did you see him sign it?—I believe in Mr. Beauchamp's office.

154. Can you say when you saw him sign it?—I cannot.

155. Now, here is a lease of 31st March—this also is signed by Mr. Smith?—Yes.

156. When was it signed—can you say?—I cannot.

157. Or whether it was signed in 1877 at all?—I cannot.

158. Mr. Luttrell.—Who is the tenant in that lease?—David Kane.

159. Mr. Cleary.—Here is a lease of 3rd March—can you say when that was signed?—I cannot, nor any of them.

160. Mr. Atkinson.—Now, Mr. Cox, you were asked by Mr. Cleary had you any written communication with Creagh?—I was.

161. You said you had?—Yes.

Judge O'HAGAN.—Unless Mr. Cleary consents, I cannot allow you to give this evidence.

After some discussion it was agreed that any letters defining Creagh's authority should be admitted.

162. Did you write certain letters to Creagh?—I did.

163. Did you keep copies of them in your letter book?—I have done so.

164. [Letter book produced]. Is that a copy of them?—It is.

165. Tell us the date of the first letter?

Mr. Cleary objected, that proper foundation had not been laid for this evidence.

166. Did you give any verbal directions to the man that you can remember in reference to the negotiation for those leases with the tenants?—I did—I asked him to obtain for me a list of the names of the tenants who were anxious to have leases.

167. Was that all?—That was in a general way the principal of it.

168. Did he send you a list after that?—He did, and that list was incomplete. [List considered in evidence and refused] I have in court letters from tenants asking for leases. I produce a letter from John Roche, who states at the foot of it that he has been expecting his lease.

169. Mr. Luttrell.—How many tenants were there on this estate who did not take leases?—The difference between seventeen and forty-four.

Mr. Atkinson tendered a rental.

Mr. Cleary objected, and the evidence was rejected.

170. If there?—They were all invited to take leases.

171. Mr. Atkinson.—And those forty-four were all paying an increased rent at the time the leases were given?—They were, and paying it punctually.

#### Mr. WILLIAM BEAUCHAMP, examined by Mr. Atkinson.

1. You were employed as solicitor for Mr. Smith?—Yes, in Luttrell.

2. To get these leases executed—you didn't draft them, I believe?—No.

3. You got them drafted by Messrs. Kelly and Lloyd in Dublin?—Yes.

4. First of all, were they executed by Mr. Smith in your office?—No, they were executed by the tenants first.

5. Have you the dates of the execution by the different tenants?—Yes—each lease bears date when it was executed by the tenant.

6. What is the first lease you have in your hand?—David Gorman's.

7. Did you, before that man executed the lease, read it to him?—I did.

8. Did you explain the covenants and clauses to him?—In detail.

9. Did he make any objection to it?—None whatever.

10. Did he express any anxiety to have it?—I don't recollect anything about anxiety. All I know is that the tenants were most anxious to get away—to pay for their lease and be done with it.

11. Was it subsequently executed by Mr. Smith in your office?—On 7th November, 1877, all the leases were executed by Mr. Smith in my office.

12. In presence of Mr. Cox?—In presence of Mr. Cox and myself.

13. They were executed by the tenants in Mr. Cox's presence also?—Yes.

14. Did any of the tenants in your presence make any complaint to Mr. Cox or any reference to Creagh having made threats to them?—I never saw Creagh in my life, or heard of him.

15. Mr. Cleary.—What was the stamp duty on these leases?—Seven and sixpence.

16. How much was the tenant charged—how much did Gorman pay?—7s. 6d. and £1. I will tell you exactly what he paid—I have the figures here. David Gorman paid £1 1s. 6d. Messrs. Kelly and Lloyd's costs, and £1. 6d. my costs of witnessing it.

17. How much was the stamp duty?—12s. 6d.—7s. 6d. on the lease and 5s. on the counterpart.

18. So far as you know, no copy or draft of the lease had been given to Gorman before he executed it?—No. I never saw either Gorman or the leases before—I never saw the leases till they came down from Kelly and Lloyd, and never saw Gorman until he came into my office on the day he signed it.

19. Are you aware as a matter of fact that no drafts were sent to the tenants?—I never heard anything about it.

20. When Gorman came in did you read the whole lease to him?—I will tell you. Three or four of them came in the first day.

21. Mr. Atkinson.—Are you able to say whether Gorman was amongst them?—No, I cannot. But when there was more than one tenant present what I did was this. I took a lease and I said, "What is your name?"—He replied (suppose) "David Gorman." I then took his lease and said, "This is a lease between Charles William Smith as landlord of the one part, and you, David Gorman of the other part; and it grants you the lands of Callane Middle, containing" whatever were its contents. "It reserves to the landlord all mines, minerals, coal," and then I used the reservation fully,—"and all such part of the lands as are known as boglands" and then I would say "you have no hog on the land." "And also reserving to the lessor, his heirs and assigns, the sole and exclusive right of turbary," "that means that you have no right to cut any turf on the bog." "Also to get, follow, raise, assist, use, work, take, and carry away the sand, stones and things heretofore reserved, &c." "The meaning of that is, if there is a gold mine on your farm, the landlord can go in and work it, and all you would be entitled to get would be compensation for damage." I went through every covenant in that way.

22. I assume you went through all the rest in that way?—When there were three together, or more, I read the first man's lease that way fully; then I took up the second man's lease, and said "The covenants in your lease are the same; and the only difference is the quantity of land and the rent—your land is so much, and your rent is so much. The lease commences to run from 1871, you have thirty-one years to run

from that time; your rent is £128 sterling, and the landlord can recover that amount of rent from you if you break any of the covenants; but there is a provision subsequently in the lease that if you perform all the covenants in it your rent will be what you are expected to pay—that is £64, but if you break any of the covenants, your landlord can recover from you the full sum of £128. I went through every covenant in that way.

23. Go on, now!—Then there is a covenant that in case you do not pay the rent the landlord can enter and distrain; a covenant to pay the rent on the days mentioned—a covenant to repair—a covenant reserving all the game to the landlord, and that you will preserve it for him. That is, if you find anybody on the land trespassing for game, you will prosecute or assist the landlord in recovering.

24. Mr. Cleary.—Otherwise you will have to pay the double rent—go on!—Then there are the husbandry clauses.

25. Say everything you said to Gorman!—I said—these are the husbandry clauses—and also that you will plough, lay out and employ."

26. Judge O'HAGAN.—Was Gorman present when you were reading that!—This is a lease of 1st September—if there were more leases executed on that day, I cannot tell you whether Gorman's lease was the lease I read in detail.

27. You read some lease in detail!—Yes.

28. Mr. Cleary.—Go on!—That you will plough, lay out, and employ on the said premises, by way of top dressing or otherwise, all the dung, manure, or compost which shall be made, raised, or otherwise produced on the said lands." "Now," I said "you cannot take the manure made on that farm to any other farm you hold."

29. Or you will have to pay the double rent!—I didn't say that. Then, there is the clause as to whitewashing. I said, "you are to whitewash the houses every year—there is not much hardship in that, I suppose, because you do it." "Then there is a clause that you will reside on the premises."

30. Or pay the double rent, go on!—That you will not plough, sow, or have in tillage, without the consent in writing of the lessor, any portion of the said lands coloured green on the map." Then I turned to the map, and if there was any portion coloured green I called their attention to it, and said, "Is that right?" "Then there is a covenant not to burn the land, and also that you will not permit or suffer any part of the soil or surface of the said lands to be burned, and also will not, without the consent of the landlord, sow or take off the lands two crops of corn or white crops in succession." I read that clause fully. Then, as to the hay and straw, I read that fully, and then there is a clause not to sublet or assign; and there is a proviso that if you perform all these things faithfully, the landlord will receive from you the rent you are now paying—namely, £64, but there is a saving clause that, supposing that you had broken any of these covenants, and the landlord received the smaller rent from you, he was to be still entitled, if you break them again, to get the original penal rent.

31. Mr. LEEVER.—Did you ever see a lease like that before!—I never prepared a lease like that before; but I am not sure I did not see one.

32. Mr. Cleary.—Go on!—I explained the clauses of re-enter fully, and explained that it referred to each covenant. The next clause was as to the power to bequeath by will; and I explained that, in case of intestacy, only one person was to get it. Then there was a covenant by Mr. Smith that if you do all these things, and are a good tenant, you can enjoy the premises for the term of your lease.

33. That is what you said!—Words to that effect, because I recollect this case very fully, there were so many tenants coming in to me.

34. You cannot say whether you said that to Gorman!—I didn't mean to him more than the rest—I explained the contents of the lease to each tenant, and told them specially that their rents were double unless they observed the covenants in their leases.

35. Did you ask Gorman, "Have you any solicitor whom you would like to consult about this matter?"—I did not.

36. How many years have you been in the profession?—In 1869 I was sworn in.

37. Did you say "I am ten years an attorney, but an instrument like this I never saw before, and I think it is only common justice to you to say that you ought to show it to some professional man before you sign it!"—I did not.

38. Didn't you consider it a most unusual form of lease?—Indeed.

39. Don't you think that when you were going to make a tenant take a lease of that description you ought to have suggested to him that he should have an independent legal advisor, as a matter of fairness?—Decidedly not. As a matter of practice, tenants on an estate generally get the landlord's solicitor to prepare leases for them. I very seldom send leases for approval to any solicitor on behalf of a tenant.

40. But if a landlord gets a lease drawn up containing most unusual clauses, and if he wants to bind his tenant by a printed document that he has never seen before, don't you think that in common justice to the tenant, he should be recommended to employ some independent solicitor to look over it before he signs it?—No. I do not think so, because most tenants are altogether in the hands of their landlords, and the landlords consider their interests, and that lease, in my opinion, is a good tenant.

41. Pardon me for a moment—did you consider these tenants were altogether in the hands of Mr. Smith when they came to execute their leases?—I believe every tenant is in the hands of his landlord.

42. Do you believe that is the case now?—I do; decidedly.

43. Since the passing of the Act of 1881!—Yes—I believe that when this agitation is over, the tenants will have just as great a respect as ever for their landlords. As regards these leases, I believe if a tenant is a good tenant, that lease does not interfere a pen's point with him, because there is everything in it that a good tenant would do.

44. Would you advise any tenant who came into your office, paid you £6, 8d, and asked your opinion, to accept of such a lease, if he was a free man?—I would not advise him to refuse it.

James Horan was examined, and deposed that he got a sublease for Cregagh, and left it in Cregagh's house, but that he refused to come.

ANSWERS  
Mr. W. H. Horan,  
Examining.

(BEFORE MR. JUSTICE O'HAGAN AND MR. COMMISSIONER VERNON.)

FEB. 1, 2, 1882.

LIMERICK, FEBRUARY 1st and 2nd, 1882.

THOMAS GREEN AND OTHERS, - - - - - *Tenants;*  
Mrs. JANE STACPOOLE AND MR. R. STACPOOLE, - - - - - *Landlords.*

Mr. J. Roche, instructed by Mr. Kelly, appeared for the tenants; Mr. J. Atkinson, Q.C., instructed by Mr. Cullinan, appeared for the landlords.

Thomas Green

THOMAS GREEN, sworn and examined.

704. Mr. Roche.—You got this holding from your father in 1870?—I did, sir.

705. This (*produced*) is the assignment from your father?—It is, sir.

706. Now, how long do you recollect the farm?—I recollect it from 1848, very well.

707. What was the rent when you first recollect it?—It was 3s. an acre first. There was 3s. an acre put on it.

708. That was after?—Sometime shortly after.

709. Do you know what the bulk rent was?—I don't know, I was too young at the time; I heard there was 3s. an acre put on it.

710. Now, after the 3s. an acre was put on it, was there any other increase?—There was with the lease.

711. But between the 3s. an acre and the time of the lease, there was no increase?—I believe not.

712. Have you a receipt here. This (*produced*) is a receipt of October 6th, 1868. "Received from James Green, the sum of £9 4s. 6d. sterling, being half-year's rent due out of his holding to 25th March, 1848." And the present rent is £13 10s. for the half-year. Now, do you recollect Cunningham coming to you about this lease and increase of rent?—It was not to me he came at all first, he wanted to speak it to my father.

713. Were you present when he came to your father?—I was.

714. What did he say to your father?—He wanted to force him to take the lease, that Mr. Stacpoole sent word to the father, as he was old, that it was better for him to have the lease in his own name and not to be depending on me.

715. Did Cunningham know you had been married some years before?—He did, well.

716. Did he know your father had made over the place to you on your marriage?—He did.

717. Did you say anything to Cunningham?—My father said that he had his place given to me, and Cunningham said it was nothing for me but to take the lease in my own name. I said I thought it was dear enough already.

718. Did he tell you the amount of the increase he was putting on you?—He did, he called my mother up when I refused, and told her that I could throw her out on the road if she allowed me to take a lease.

719. Did he come to you again after that about the lease?—He did, to-morrow after, as far as I recollect, I don't know whether he was talking to my father before pressing it. There was not forty-eight hours between the time I knew about it and I went to Tullihel to sign it.

720. When Cunningham came to you the second time did he say anything to you about going to Tullihel?—He said I would have to sign the lease.

721. Did you go to Tullihel, then?—I did.

722. Whom did you see at Tullihel?—Mr. Stacpoole and Cunningham.

723. Did either Mr. Stacpoole or Cunningham speak to you?—Mr. Stacpoole went for the lease and laid it down for me. I said I thought it too dear at the rent and that I wanted no lease. He blushed and said I should sign it.

714. Was the lease real for you?—Not a word, sir; nor I was not asked to read it.

715. Judge O'HAGAN.—Where was it he execrated it?—He has a sun-house that he uses as a residence.

716. That is at Tullihel?—Yes.

717. Mr. Roche.—Now, I believe you have another holding under Mr. Stacpoole?—I have.

718. But there was no increase of rent put on the other holding?—There was not—a few shillings.

719. Now you have a lease of the other holding?—I said, as I was going to the cost of paying for a lease why did he not add both things together. He said he could not as there were two townlands; but he said "If you like I will give you a lease of that, with no lease." It is poor wet land.

720. State the conversation that occurred between you and Mr. Stacpoole?—I asked him why did he not add the other place to it, as I was paying for the lease. It was £4 12s. 6d. costs. He said it was on different townlands and he could not do it.

721. And you have a separate lease of the other townland?—He said he would give me a lease if I liked, that I was improving it. I was draining it at the same time. It was a wet place with springs, and he used to shoot the place very often with snipe. He was after walking it, and I was making improvements, he said he would give me a lease of the land with a rent, and I said I would take it.

722. Judge O'HAGAN.—And you did take it?—I did, sir, I have it here.

723. Mr. Roche.—Now, you recollect the holding of which we are now speaking for a good many years. Did you ever see your father making any improvements on it?—I was with him making the whole of the improvements.

724. Tell the Court first, did he make any buildings on the holding?—He did, he made a long dwelling-house, pretty long, and a long barn suitable enough for the farm.

725. Mr. Atkinson.—Do you know this of your own knowledge, or are you talking of something you heard?—I only know of part of the house I built myself.

726. Mr. Roche.—When was that?—The year after I married, in 1871.

727. Did your father make any buildings before your marriage?—There were as much buildings as were suitable. I don't recollect the buildings, I recollect only the barn.

728. Do you recollect any buildings being made by your father?—No, but the barn.

729. When was the barn built?—It was since 1850. I cannot give any date for it.

730. Did your father make any drains on the holding?—My father was getting old then, it was myself who was making them.

731. Very well, was there any made during your father's time?—There was, it was I did them since, the most of them. He had about two acres of bog reclaimed, and when I got married I drained the bog.

732. About how many acres of bog have you re-claimed altogether?—Some peckles less than two.

Feb 1, 2, 1882.  
Thomas Green.

733. Is the bog you have reclaimed thoroughly drained?—Thoroughly drained, with flag drains, and flags in the bottom of some of them, the place was so soft.

734. Are you one of the men who have to do duty work for Mr. Steeple, cut turf for him?—Always, Mr.

735. Are you one of the men who has to pay £1 for the turf for your house, sixteen perchers?—I pay about 3s. for it, I got a little more and pay 2s. 9d. a perch for it.

736. That is the sixteen perchers is not sufficient for the supply of your house?—No.

737. And you get about 3s. worth?—I have to get it, for my father and mother are old, my father is bedridden and wants a second fire, and he charges me 2s. 9d. for the bog.

738. Mr. VERNON.—Is that for the whole bog or only a portion?—Anything after the sixteen perchers I pay £1 for the sixteen perchers and anything after that 2s. 9d. a perch.

739. Mr. BOOKE.—You are the rate collector, I believe, for that district?—I collect the taxes.

740. Do you know this bog that is in Mr. Steeple's occupation?—I do, well.

741. What is the rating of that bog?—2s.

742. We pay the taxes?—Eight of the tenants. There was a divide of 1½s. of the valuation asked to each of their valuations.

743. Mr. VERNON.—Then it is not a separate valuation?—No, but the £6 of the tithes valuation is divided between the eight tenants.

744. Mr. BOOKE.—That is they contribute the rates in respect of one eighth part of the £6?—Yes, in proportion.

745. Mr. VERNON.—Is that outside the bog?—It is.

746. Mr. ATKINSON.—The whole rate upon the whole thing is 16s. a year?—It is not, it is £6.

747. That is the rating, how much is the rate?—About £6 in every 16s.

748. Do you ever collect the rate?—Nothing but percentage rate.

749. Mr. VERNON.—Is it the county rate or the poor rate?—It is county rate, 1s. 11½d. this time, and two levers of that.

750. Do you mean in the half-year?—Yes, sir.

Cross-examined.

751. Mr. ATKINSON.—There are a great many malicious injuries in that district, are there not?—I don't know any lately.

752. There are people coming forward with fraudulent claims, and saying their houses are burned?—There is not 1s. of it in this.

753. You are an intelligent man and have two farms, and two leases, have you not?—I have, I am sorry to say I have the leases.

754. You were always sorry and never wished to take the place at all?—I did not say that, sir.

755. Did you wish to take it when you got the lease?—Did I wish to take the place?

756. Did you wish to take the lease?—I did not.

757. You felt it was forced upon you?—Yes.

758. And you object to it?—I do, to be sure.

759. And you felt indignant with Mr. Steeple for forcing it on you against your will?—I did, sir.

760. And you did not look upon it as any advantage?—Whether I did or not I had to do it.

761. You will have to answer the question if you were twice as clever, did you look upon it as any advantage to have it?—For myself!

762. Yes?—No, but I looked about it as a disadvantage.

763. Did you ever say otherwise for having the lease of this farm?—The first lease?

764. Yes?—I never did.

765. You did not consider a lease at all an encouragement to a man to make improvements?—I did, in the other place that he offered without a rise.

766. But not this?—Not in this.

767. And you never said it was?—Never.

768. And were you anxious to get the lease of the other place?—I was for a certain reason.

769. You were anxious?—I was. Mickey Cunningham went round and told me the man whose lands surrounded it was looking for it, and I told that to Mr. Steeple one time, and he told me he did not know anything about it.

770. And you were not anxious to get a lease of that?—No.

771. They were both promised the same day?—They were not.

772. When were they promised?—When I went to sign in his office.

773. Sign what?—The first lease.

774. And was the second promised then?—Yes.

775. And did you sign the first lease willingly in case you got the other?—I had to do it.

776. Although you were promised, in case you signed the first lease, you would be given a second lease?—He did not say anything about it.

777. Were you promised the day you went to sign the first lease that if you signed it you would get a lease of the second farm?—It was not on those conditions.

778. Were you promised it?—I was, after signing it.

779. Were you satisfied with that?—I was not. You want to make me say what I cannot say.

780. No, but I want you to swear what you wrote. Is that (produced) your handwriting?—It is, I think. Well it is my handwriting.

781.—

"March 19th, 1873.—Honoured sir, I have sixty loads of stones engaged in Kilshane quarry waiting for a lease of Shantead to close the drains."

Shantead—that is this place?—Yes, sir.

782. Judge O'HAGAN.—The lease bears date 29th January, 1874?—I had the lease signed before I wrote that.

783.—

"The land is wet, no use without draining. I am going to loss £10 dressing it. I am top-dressing and draining, and fencing in Bolaha."

Is the other Bolaha?—It is, sir.

784.—

"I bought Michael Cunningham to see it. It is an encouragement to a man to have a lease."

What do you think of that now?—I say at the rent he promised it to me, it was.

785. On your oath, sir, was not your lease signed when you wrote the letter?—Certainly, I had to do that, but I promised me this lease without a rent.

786.—

"Your lessor promised me the Shantead lease in presence of Mrs. Steeple and Mr. Cunningham, on the day I signed the Bolaha lease. I have a gentleman's word for it."

Was it an encouragement for a man to have a lease?—It was at a low rent.

787. Was this new lease promised to you the day you signed the other lease?—After signing it. I would not object to the other lease too if he gave it to me without the rise he put on me.

788. Did you look upon it then as an encouragement to a man to have a lease?—At a fair rent.

789. What did you mean by this, "I am top-dressing, draining and fencing in Bolaha." You had a lease of Bolaha in your pocket. "I brought Michael Cunningham to see it. It is an encouragement to a man to have a lease?"—Certainly, sir, because if I improved that farm there would be 25 per cent on it before two years.

790. Was it an encouragement to a man to have a lease?—It is at a fair rent.

791. Had you not this lease in your pocket signed?—I had not, it went back again.

792. You had signed it?—I had signed it, but I did not read it.

JULY 1, 1876.  
Thomas Green.

791. What did you mean by saying it was an encouragement to have a lease that you say was forced upon you?—Not that lease.

792. "I am top-dressing, dressing and fencing in Bolaha. It is an encouragement to a man to have a lease." What did you mean, an encouragement to a man to have a lease that was forced upon him at a high rent?—I will tell you now. He fixed it with the lease at £37, and if he saw the improvements he would put £37 on it.

793. Is that what you mean?—Yes; I am sure of it.

794. Did you wish to have a lease in 1874?—Not at the rent.

795. Did you consider it an encouragement to get it at the rent?—I did at the old rent.

796. How can you reconcile it with your letter written after you got the lease?—I wanted to hurry the lease before he would put a rise on me. He promised it to me without a rise, and I believe he put 14s. on it after, and I objected to it too.

797. At the time you wrote that letter the lease of Bolaha you may had been forced upon you against your will?—Certainly, say, I had no encouragement for a lease, but if I made Bolaha worth £37 I would have to pay it.

798. You wrote that letter. You say you told me already you were angry with Mr. Stapepool for having forced a high lease on you?—At the high rent, the whole of us were objecting.

801. Perhaps their objections were as well founded as yours, were they?—I don't know.

802. Did you not tell me that at the time you wrote that letter you had an angry feeling against Mr. Stapepool for having forced a lease on you?—Certainly, I have £100 spent on it since I got married.

803. What did you give your father before your marriage?—The father in law had to give it.

804. How much?—£150 or £160.

805. Did you say this moment here that it was to the rent they were objecting and not the lease?—Certainly, we object to the big rent, and lease with a rise.

806. Did you say the others were objecting to the rise and not to the lease?—I cannot speak for any person but myself.

807. How much did you give him?—I did not give him a penny. It was the father in law that arranged with him.

808. Mr. Rocke.—Have you got the other lease here?—I have, and the old and new receipts, and I objected to it because he put a rise on it, and broke his word with me. He said it was not much, he only wanted to make the pounds even.

809. Mr. Atkinson.—On which did he put the rise?—The Shantrade lease.

810. Where did you sign it?—In Mr. Culman's office in Ennis.

811. Did you ever say a word about it to him?—I did not.

Thomas Kers.

### THOMAS KERS, sworn and examined.

812. Mr. Rocke.—You were born on this holding I believe?—I was, sir.

813. As long as you remember the rent before the increase put on at the time of the lease I believe it was £11 ls. 4d.?—That is all exclusive of rent-chARGE.

814. Judge O'HAGAN.—How much was the rent-chARGE?—About 4s.

815. Mr. Rocke.—Do you remember what houses are there now on the place?—There is a good dwelling-house and a cow-house, and stable, dairy, barn, and pigsty.

816. Who built these houses?—It was my father built the dwelling-house and I built the others.

817. Did you ever get any help from the landlord?—Not a shilling.

818. Was there any bog on this holding?—I hold about an acre or an acre and a half of a swampy place that we got tilled and broken.

819. Did you reclaim it?—Partly I did reclaim it but some of it was partly stable before.

820. Did you reclaim some other portion of it?—I did.

821. Had you those hedges made and the reclamation effected before last increase of rent?—I had.

822. Had you done anything else on the holding besides the buildings and reclamation?—Well, measuring it and improving it during my boyhood and manhood.

823. When did you first hear of the increase of rent that was to be put on?—In 1876.

824. Who came to you about it?—Well, Coleman came and told me he wanted to survey it, it is the same-compliment that belonged to my cousin.

825. After Coleman came to you, did Cunningham come?—He did, and Coleman had the survey made.

826. What did Cunningham say to you when he came?—Well, Coleman straightened the bounds, squared some fields to correspond with a holding I have alongside, and then he said I should pay an increase of rent.

827. Who said that?—Cunningham.

828. Did he say anything about a lease?—He did, that I would get a lease.

829. What did you say to that?—I told him I did not want a lease at all, that I had it a long time without a lease, and I had no doubt the master would not disturb me while I would be able to pay rent.

830. Did he tell you what the increase of rent was to be?—He did not.

831. Did he at no time tell you what the increase of rent was to be?—Well, I believe he did afterwards.

832. Well, when he told you what the increase was to be did you say anything to him?—I told him I thought there was increase enough on it because the arable land was bad land.

833. Now, how many times did Cunningham come to you about this lease and increase of rent together?—I cannot tell you that.

834. He came to you a great many times?—I suppose he came two or three times, he was often in the place.

835. Did you always refuse to take the lease or pay the increase?—I told him I did not want the lease with an increase.

836. Did he ever say anything to you about a notice to quit?—I got a notice to quit.

837. You refused to sign the lease for a couple of years I believe?—I did.

838. How long altogether was he coming to you?—After getting the notice to quit?

839. Between the time to first came to you to put on an increase and the time you got the notice to quit you had more than once refused to take the lease?—I did.

840. And then you got this document (notice to quit) dated March 11, 1876, to deliver upon September 29th. You were served with that notice to quit in the early part of the year 1876?—Yes, sir.

841. And I suppose you began to see that they meant mischief?—I knew I should do what they liked.

842. I believe you went and saw the master about it—I did not, sir. I never spoke a word to him about it until the lease was signed, Cunningham brought it within in the house.

843. Cunningham brought the lease to the house to you?—Yes, and I signed it in my own room.

844. This is the lease (produced) and that is your signature?—It is—it is my signature.

845. Since you got the lease you have been paying the increased rent?—Yes, sir.

846. Did Cunningham read that lease for you?—He did not.

847. Did you read it yourself?—I read a portion

and saw it was no use to continue, whatever it was I should take it.

848. And you did not find it very interesting?—Indeed, I did not.

Cross-examined.

849. Mr. Atkinson.—Now, Kett, on your oath was that notice to quit served on you to make you to take out the lease?—I cannot know that.

850. On your oath, don't you know what it was served upon you for as well as that you are sitting in that chair?—Indeed I don't, how could I?

851. Do you swear that?—I do then.

852. Was there another notice to quit served upon Simon Kett?—I heard so.

853. How far does he live from you?—Not twenty perches I suppose.

854. Did you ever read it?—Never.

855. Did he ever tell you he got it?—Never.

856. What was it served for?—did you ever hear it?—I don't know.

857. Do you tell that to those gentlemen?—He was causing a bother about a boundary, I caused no bother.

858. A man of the name of Joseph Kett, died in December, 1873, did he not?—Yes.

859. Was he a brother of yours?—An uncle of mine.

860. You and Simon wanted to get his farm?—That is not so because he was Simon's father.

861. But you wanted to get his farm?—No, Simon had his place already.

862. But you wanted to get Joseph Kett's farm divided?—There is not a single word of truth in that, I never asked it and had no chance of getting it.

863. Was there not something about straightening bounds?—There was.

864. Did Simon Kett refuse to have his bounds straightened?—I believe he did, but I never did.

865. On your oath was not that notice to quit served to make Simon Kett allow the bounds to be straightened?—I don't know.

866. Did you and Simon Kett not hold this place jointly?—We got separate receipts.

867. Did you not hold jointly?—No, but there were fields in which we used to cross each other with cattle.

868. Before that notice to quit was served was there any talk whatever about a lease?—I believe there was.

869. Where?—Mickey Cunningham when he used to meet me, used to tell me I would have to take a lease.

870. Is it before that notice to quit was served?—Certainly.

871. Who was the owner of the farm you got a lease of?—Myself was and my father.

872. Have you another farm?—I have.

873. Is that a separate holding?—It is alongside this.

874. After this lease was forced upon you did you apply to Mr. Stapepole for the same kind of a lease for the other farm?—I was reasoning him about squaring the fields, and I told him I would like to get the one receipt and he gave me one receipt.

875. That is not what I asked you, after that lease was forced upon you, upon the one farm, did you apply to Mr. Stapepole to get a lease of the other farm?—I don't think I did.

876. Are you sure of it?—As far as I recollect.

877. Did you apply to have them both put into one lease?—Did you ask him?—I did not.

878. Do you swear that now?—As far as I recollect, I would swear it.

879. Do you remember old Joe Kett, the farmer he had?—I do.

880. What was the dispute that Simon Kett was objecting to the straightening of the bounds?—Simon did not like the way the bounds were going.

881. The new bounds—you were satisfied?—Certainly.

882. And the landlord could not arrange between you?—Well, I believe he could not.

883. And then those two notices to quit were served?—We had the lease before the bounds were made, six months.

884. But not before you agreed to the bounds?—He had to send Mr. Milward back to settle it between us, and we had the lease three months before that.

885. Signed?—Yes.

886. Judge O'HAGAN.—Do you mean six months before the bounds were actually set right?—Yes.

887. Mr. Atkinson.—But not three months, Simon agreed to have the bounds in the way they wanted it?—I had the lease before they agreed to it, and they had their lease.

888. Mr. VERNON.—Was there any communication in writing contemporaneously with the notice to quit?—

889. Mr. Atkinson.—Did Mr. Coleman the surveyor, tell you what the notice to quit was for?—I don't recollect that he did.

890. Would you swear he did not?—I would then.

891. And you don't know whether it was for the lease or Kett's bounds?—I cannot say.

892. Whether it was for one or the other?—Yes, then.

893. Mr. Rocke.—You swear that before you were served with a notice to quit you had been asked to take out this lease?—Certainly.

MICHAEL LYNCH, sworn and examined.

Michael Lynch

894. Mr. Rocke.—You have this holding from Mr. Stapepole?—Yes.

895. Your father had it I believe?—Yes, and my grandfather.

896. What was the rent in your father's time?—£3 or £3 10s.

897. The rent is now £25, area 42A. 1s., and valuation £15 10s. Now do you recollect any increase being made in this rent?—I do.

898. When was the increase made?—I think about twenty-eight years ago, after my father's death.

899. To what was it increased?—To £17, there may be a few shillings.

900. Now do you recollect any further increase of rent being made between that time and the time you got the lease?—There was an increase when I got the farm, when my brother broke down.

901. Your brother got the farm after the death of your father?—A good time after.

902. And he was working the farm for some years?—Yes.

903. And your brother was broken in the place?—Yes.

904. About what time was your brother broken?—April, 1875.

905. Then in April, 1873, you became tenant under this agreement (proposed), for £20?—And I paid all his debts to my lord.

906. When you first went to Mr. Stapepole, Mr. Lynch, with respect to your brother's holding, did he state to you at what rent he would give it to you?—The old rent that was the first agreement, £17.

907. Then when you went to conclude the agreement?—When I came back the brother did not seem inclined to give me up the farm, and it remained for about a fortnight in abeyance, in the meantime Mr. Stapepole, wrote to me again that on second consideration he found—

908. Judge O'HAGAN.—Have you that letter Mr. Lynch?—I really don't think I have, but I am sure himself won't deny it. That it should be £20 but that he would not charge me the advance for two or

Feb 1, 1882.

Michael  
Lynch

three years, and I can prove he did not charge me the advance for a year or two.

910. You got possession of the holding from your brother after that agreement?—Yes, I had possession before that agreement.

910. Was it your brother gave you up possession?—It was my brother gave me up possession.

911. Mr. Venables.—The landlord never went into possession?—No, he did not.

912. Mr. Cooke.—You continued in possession then until the increase of rent was announced to you?—The increase of £3 was announced to me before.

913. I mean the second increase, when did you first hear about the second increase?—I was in possession, I think, about three or four years.

914. Now who came to you about that increase?—Michael Cunningham. Michael Cunningham was speaking to me and saying—

915. I want you to state what Cunningham said to you, exactly?—Of course I need not tell you that I took the farm not thinking to let it go to a stranger, and to keep the brother out of the workhouse, and Cunningham then was telling me after all my outlay that the brother's wife was interfering with Mrs. Staplepool, and making influence to get the place back again. I swear if he did get it back he could not keep the place six months. Cunningham persuaded me it was better for me to take a lease fearing Mr. Staplepool would turn me out.

916. Mr. Atkinson.—When was this, sir?—Two years I think after I took the farm.

917. Mr. Cooke.—In consequence of that did you go to Mr. Staplepool, or write to him?—I really cannot recollect whether I wrote to him or not.

918. Now do you recollect the interview you had with Mr. Staplepool, at the time you signed this lease, or did you see Mr. Staplepool?—I saw him before I signed the lease. That I could not pay the rent, £26, it was too high and I thought I would not be able to pay it, and I told Mr. Cullinan too, in the office the day I signed the lease, that if I got the lease at the old rent I think I could continue to pay it fairly.

919. Mr. Atkinson.—Will you kindly say what Mr. Staplepool said to you?—Mr. Staplepool said I should pay £36 a year for the farm, £1 an acre at his own lode, Tullaher.

920. Mr. Cooke.—And did you remonstrate with him?—I did. I said I would not be able to pay it, and it was too bad to put a rent on my improvements and he knew I got the farm in a terribly bad state.

921. You got the farm in an exhausted condition?—It could not be worse.

922. Your brother had been broken in it?—Yes, and he had been a bad farmer to tell the truth.

923. From the time your brother gave up the farm in 1873, and the time this large increase was proposed had you made a large expenditure on the holding?—I had a great deal, I laid out any amount of money on it as far as opening drains, between £80 and £90, along with paying arrears, arrears of bog money and all his debts.

924. Did you tell Mr. Staplepool that you had made this expenditure?—I did, he knew it himself.

925. Did you sign the lease?—I signed the lease in Mr. Cullinan's office, but I was greatly disappointed, I thought he would not put an advance on me.

Cross-examined.

926. Mr. Atkinson.—Now, sir, you are a draper, I believe?—Yes.

927. And you live in the town of Kilrush?—Yes.

928. Now, would you just tell us the conversation you had with Cunningham?—I had two or three conversations with him, he introduced to me about the lease, and said it was better for me to take a lease, that the brother's wife was making some influence with Mrs. Staplepool, bringing eggs to her, to get the farm back again.

929. And it was better for you to get it, and prevent

her from getting it!—Of course, to keep it after all my outlay.

930. Was not that it, to get a lease to prevent the brother's wife from getting it?—Not to turn me out again.

931. Was that it, sir; that Cunningham advised you?—Candidly.

932. And you agreed with Cunningham?—I did at the time. I admit to you if he gave me a lease at £26 a year I don't think there would be anything very wrong in it.

933. Was the object of getting a lease to prevent the brother's wife from getting it?—Certainly.

934. Did Cunningham tell you at the time what the increase was?—No, he did not.

935. When did you first hear about the increase?—In a letter from Mr. Staplepool's clerk.

936. Have you got the letter?—Yes, I think I have it (produced).

937. Now, listen.—"By Mr. Staplepool's directions I send you the enclosed receipt, and also beg to say that you can have the lease at £26 a year." Did you write any answer to that?—No, I did not.

938. Did you send any message?—I did not, I went and remonstrated with him, and said I could not pay £26. He said that should be the rent.

939. Did he say that should be the rent, or you would get no lease?—He did not.

940. He said that should be the rent, that is all!—That is all.

941. What did you say to that?—I really forgot now. I am sure I told him it was too much, as well as I recollect.

942. But that is all!—That was all.

943. You would not let the brother's wife have it at £26?—Land was more valuable at the time, and I wanted to get the interest of my money that Mr. Staplepool had in his pocket.

944. Whose money had he in his pocket?—Had he not my £100 that I laid out for drainage, and he knows himself, I am sure he won't deny the state I got it in, in a deplorable state.

945. How soon after that letter had you the interview with Mr. Staplepool?—A couple of months after when he came to Tullaher.

946. And the lease was executed 14th October, 1879?—Yes, I got so careless about it, I did not ask for it.

947. Probably the fact that 1878 was a bad and wet year, and 1877 was a bad year, might account for your reluctance?—Yes, everything accounted for it, because I would rather not have the lease when I knew I could not pay the rent.

948. When you found the seasons getting bad?—I suppose so.

949. Is that (produced) a copy of the letter Mr. Staplepool wrote to you at the time you were getting this?—Yes, that is the time I signed the agreement.

950. This is the letter—

"I have consulted Mr. Callinan about John Lynch's farm, and he suggests that the proper way to carry out the arrangement is for you to sign the tenanted agreement as tenant for the farm from the 1st September last, up to which date the rent will have to be paid as a new tenancy commences. There are 10s costs of the agreement also to be paid. I have made the rent in the proposed £26 per annum, but if I see the farm improving I will make an allowance for the first few years' rent. I am departing from the rules of the estate in this case, knowing that you have already made considerable advances to your brother; otherwise I would not hear of such a transaction. You will have to get clear possession from John."

Who was John?—My brother.

951. "Before you sign the agreement. The rent is on the other side." Now is that (produced) your handwriting?—It is.

952.

"I got your letter and proposal, which I would have signed and returned, but owing to some misunderstanding between myself and my brother's wife, she is not satisfied to give me possession. She would rather give it to one of

her own friends, but I trust if it should come into your hands from your previous kindness that you will give me a preference to it. I would have written before now, but was waiting to know if John's wife will change, if not I will be glad to take it from yourself at your own terms, as your other tenants. 18th March, 1873?\*

\*Yes, that is the tenancy; that is quite right.

933. Was not your rent £20 under your signed agreement?—The first agreement I made was for £17 a year, and he wrote me after—

934. Was not that pending redemption?—It was not.

935. Is this (produced) your handwriting?—It is, sir.

936. Then what do you mean by saying your rent is only £17?—£17 is the first agreement with Mr. Sheapole, and don't you see his letter that he was considering the whole thing, and said the rent should be £20, and then he made it £16. He only allowed me an abatement one year, two gales.

937. Mr. Cooke.—How much did he allow you in monies' number?—About £3.

#### RICHARD STACPOOLE, sworn and examined.

938. Mr. Atkinson.—Mr. Stacpoole, upon Haugh's take what was his rent originally, Michael Haugh (Pot), No. 73 in your book?—It was his son was the witness.

937. What was his rent?—His rent was £19 13s. 2d.

938. Judge O'HAGAN.—The rent before the lease you say was £19 13s. 2d., he says £17?—No, £19 13s. 2d.

939. Mr. Atkinson.—What was it raised to at the time of the lease?—£27.

939. Do you remember going over this, did you send Mr. Coleman to survey this place?—Yes, Haugh was always under the impression that there was less land than he was rented for.

941. Then you got it surveyed?—Coleman surveyed it, and he was not quite content, and Mr. Coffey checked the survey.

942. Did he find it correct?—Mr. Coffey said so.

943. Who valued the land as to the increase that was put on them, was it yourself?—Yes, I was very often on the place and had an opportunity of inspecting it.

944. Did you see any improvements there that you remember?—There were the houses he mentioned.

945. Were they there when you became acquainted with the place?—Yes.

946. The rest you put on, was that in your opinion a fair rent?—I think so.

947. Had you any conversation with him in reference to this lease?—Old Haugh's?

948. Yes?—No, at the time of making the change I told him he could have a lease of his holding at the new rent.

949. Did he make any objection to the lease?—No.

950. Did he make any objection to the rent?—No, he had other holdings and he did not ask for a lease of them. He had two other holdings from year to year on another townland.

951. Were they raised?—One was the holding of a man of the name of Crowe, I think that is a little distance from his house, and that is a separate holding, and he got another at a place called Shantragh, also from year to year.

952. What is the valuation of his holdings?—He had a holding of about nine and a half acres that did belong to a man of the name of Crowe, he got it in 1857, and he had another holding, and since the lease he has got portion of another holding as tenant from year to year.

953. You cannot charge your memory that he was ever making any objection to this lease?—No, on the contrary I thought he was pleased at getting the lease.

954. Old Haugh was a very decent respectable

958. Mr. Atkinson.—What did you expect this £20 on?—Opening all the drains, opening the watercourses.

959. In consideration of that, did he allow you to let it in common?—He did, but he would have allowed any man to let it in common at that time.

960. Did you ask him for permission?—I did, I thought it was right. I don't think he had a more obedient tenant.

961. How much did you let?—Four or five acres.

962. How much did you get?—In some cases £10 a quarter, and in some cases £1, but a great deal I never got.

963. Did he make any contribution towards the sinking of these drains?—He did.

964. How much?—£3, and I had out £6, not on the farm but the river, the main drainage.

965. It runs by the side of the farm?—It bounds four other tenants as well as me and I had to pay double as much as the others.

MS. 1. 2. 1883.  
Michael  
Lough,

Richard  
Stacpoole

man?—Old Haugh was a great friend of mine there, I considered. I gave him the preference of another large farm when it came into my hands, and I was offered a big fine and a very big rent, and I let it to him at £1 7s. an acre.

966. What was the rent you were offered?—£2 5s. 6d. an acre, and also £400 fine, and any rent I chose to put on it.

967. The next was Since Mahony?—Yes.

968. What was his rent when you came in contact with him the first time?—£10 9s. 7d.

969. How long was that paid?—Until the lease.

970. Then it was raised to £15?—Yes.

970. Do you remember the time of that lease his coming to you at Tullaher?—The first thing that occurred about this was Simon Mahony objected to the quantity of land in the lease, and he got a survey made by a man of the name of Brown, and it differed in some little respect from the survey made by Coleman, and an offer was made to Mahony that if he chose a third surveyor could be got. I think there was only a few perches, and if Coleman's survey turned out to be wrong Coleman should pay the expenses of it, and if Coleman's turned out to be right Mahony should pay the expenses himself.

971. Did he get that survey made?—No, the third man was never brought.

972. Was it in 1863 you first became acquainted with this property?—It was in 1863 or 1864.

973. What is the first entry in the book, there?—The first entry, with regard to Simon Mahony, is March 23rd, 1864.

974. Now, do you remember his coming to Tullaher to you in reference to this lease?—Yes.

975. What took place between you first?—He would not sign the lease because he said the rent was too high and objected to the quantity of land in it.

976. Was there anything said, then, about a valuation?—“Well,” I said, “if the rent is unfair let you appoint one man and I will appoint another and let them decide between us, and I will abide by whatever they decide.” He appointed old Michael Haugh and I appointed Simon Keit.

977. And they made a valuation?—They walked his land.

978. And they gave you that award we have here?—They wrote me the result.

979. And upon that you made the reduction?—Yes.

980. That must have been subsequent to the execution of the lease?—Oh, yes.

981. The award is December, 1875, the lease was September, 1873. Now, did he pay my gale at the increased rent?—It would appear as if he had paid two gales at the increased rent, because the first allow-

Feb. 1, 2, 1872.

Richard  
Stephens.

since I see here in £2 as the year's rent, paid October 11th, 1876. It would appear he paid a year's rent on October 15th, 1875, and I didn't see any allowance made for that.

1003. When was it paid, when was the last gale paid, from what time did the increased rent run?—It was the gale due September 29th, 1874, and March 26th, 1875—two gales.

1003. At all events he only paid the increased rent one year!—He paid the increased rent one year, he paid the two gales together.

1004. Do you remember this man, Simon Mahony, coming to you to Tullaher about this lease?—I recollect his coming two or three times.

1005. Do you recollect anything else that passed?—I do not.

1006. Do you remember your saying to him that he should sign the lease?—Certainly not.

1007. Did he say that the rent was too much?—He did, at first, I think he even said it was too much after the arbitration.

1008. Did you ever make use of any threat of any kind that you can remember, you are not able to recollect the actual words you may have used?—No.

1009. Do you remember the progress of your conversation at all?—I do not, but I certainly made use of no threat to Mahony about taking his lease.

1010. You never said he should sign it, that is the only one he alleges?—I never did; the idea never entered my head.

1011. Turn to Mulcahy Greer, he is the next. Greer is one of the tenants upon this place, and he has been a long time there. Is there a custom on your estate that each man should give a man to cut turf?—As long as I recollect the estate in question, long before I got the agency.

1012. How many men does it give?—There was a large number of tenants and they need to give one man at the cutting time, and send a boy or a girl to "foot" the turf, as it was called, afterwards.

1013. All the turf they cut was what you burned at Edenvale?—A bouton or two used to come to Edenvale; it was an old custom on the estate—it was not I instituted it.

1014. Do you remember this man refusing to send a man there?—Yes; even in Mr. Mahon's time I remember this man complained.

1015. Did this man refuse to send a man?—He personally refused to send a man to do it, and other people were stopping in consequence, or made the remark to me.—

1016. At all events, from something in reference to this turf, did you cause a notice to quit to be served?—Yes; I have a remark in my book in 1870.

Mr. Easle.—Did you communicate that remark to the tenant?

1017. Mr. Atkinson.—You are only to look at that memorandum to know what time you served that notice to quit?—It must have been on his refusal to cut turf in 1872.

1018. He refused in 1872?—Yes

1019. Was there at that time any negotiation whatever about the lease?—None whatever.

1020. Up to February, 1873, the date of the notice to quit, had there been any negotiation whatever between you and him in reference to the notice to quit?—None whatever; it had nothing to do with the lease whatever.

1021. In its inception or termination had it anything to do with the lease?—Nothing whatever.

1022. Was he one of those upon that slip?—Yes.

1023. Who made out that slip?—I wrote the principal part, and the clerk made a pencil memorandum at the bottom of it.

1024. Do you know when that slip was made up?—It might have been in 1873 or 1874, I cannot tell you which.

1024. Judge O'HAGAN.—It is on the back of a letter which you received which bears the postmark of May 12, 1874!—The leases were to start from March, 1874.

1024. Mr. Atkinson.—I see the notice to quit would have expired upon 26th September, 1873!—Certainly.

1025. Did he pay any rent in the interval?—He paid the rent due on 26th March, 1873, on the 1st October, 1873.

1026. When did he pay the rent of September, 1873?—It was paid on the 26th May, 1874.

1027. When did he pay any other rent?—He paid then again the rent due March, 1874, on the 16th October, 1874.

1028. Judge O'HAGAN.—When was the first gale due under the lease?—

1029. Mr. Atkinson.—The date of the lease is 16th September, 1874!—Yes.

1030. So from the time of the expiry of the notice to quit until after the lease was amended, he paid no rent that had accrued in that interval after the lease was executed?—He paid me his rent regularly from time to time.

1031. Yes, but any rent that accrued due in September, 1873, was not paid until after the lease was executed!—That would be so.

Mr. Atkinson.—It was paid on October 16, 1874.

1032. Mr. VERNON.—At what rate?—At the old rate, £8 16s. 1d.

Mr. ROCHE.—The lease is from 26th March, 1874.

Mr. Atkinson.—It was not executed until September 16, 1874.

1033. (To witness.) It must have been after this time, at all events, you made out these calculations?—Yes

1034. Whom did you give that to?—Considerate must have told it.

1035. You did not give it to Cunningham?—I do say Cunningham had it, too; I found that amongst my papers the other day.

1036. Did this man, Greer, come to you himself, do you remember, first of all in reference to the turf?—It must have been when he was paying his rent that I spoke to him about the turf, for I don't think he came to me on other occasions.

1037. Can you recollect what passed?—I asked him why he refused to cut the turf the same as the others, and he told me what he said to-day, that he had no help at home and could not go, that he had sent his men when he could get them. It was the bog ranger complained to me that he had refused.

1038. Was there any talk on that occasion about the lease or the increase of rent?—No.

1039. Did he ever come to you in reference to the increase of rent?—I don't think he did.

1040. Did you make any threat to him then that you would make him cut the turf?—I might have scolded him about not going to cut the turf. I may have said that.

1041. Did you hear him swear he signed the lease at Tullaher?—I think so.

1042. Is that correct at all?—I think not, I think the man made a mistake about it.

1043. Mr. Cullinan was not at Tullaher!

1044. Mr. Easle.—You have no distinct recollection as to where the lease was signed?—I have not, I think the tenant made a mistake about it.

1045. Mr. Atkinson.—Do you remember your handing him down the lease at all at Tullaher?—No, I do not.

1046. Now, did he make any complaint to you of his having been ever threatened by Cunningham?—No.

1047. Did you say that he should sign the lease?—I did not.

1048. Or anything of that kind?—No.

1049. If Cunningham made any threat were you at all aware of it?—I was not.

1048. When did you hear it for the first time?—I think it was in court here, they all followed the same story.

1049. I believe at that time you used to spend a considerable portion of the year down there?—Yes, until this year. I was afraid to go there this year;

until then I lived there, and my family, for months in the minister.

1050. Do you know anything about this reclaimed bog he speaks of?—He has a portion of reclaimed bog near his house.

1051. How long has that been reclaimed?—Oh, many years.

1052. Was it reclaimed when you came there?—It was, they all of them have a portion of reclaimed bog, and even large tenants who have none get a piece of bog, because it is the best place for potatoes.

1053. Come on to Downes; now, what was his rent?—28*s*. *9d*.

1054. That was when you came in. How long did that continue?—It continued up to 1874, I think.

1055. Did he then get half an acre of bog of Mahony's holding?—I think he did. There was half an acre of bog cut off by the road.

1056. He is in the list also, I think?—Yes.

1057. Do you remember his coming to see you about it?—He was frequently with me there, and I have passed by his house, frequently meeting him and talking to him.

1058. Can you remember what passed between you?—No, he always came at the usual time, they were most punctual in paying the rent, the people on this ploughland, and they came almost the first to me, on going down there, to pay their rent.

1059. Did he make any complaint about Cunningham having got him to take a lease, or threatened him, or anything of that kind?—Never.

1060. Mr. Coleman made the survey of this?—There was a survey and a valuation.

1061. Was it you that held his hand while he signed that lease?—That is my writing. He made a mistake also, he said that Cunningham brought him the lease into his house. The man made a mistake about it.

1062. It was signed in your place?—It must have been.

1063. Is that your handwriting?—It is.

1064. Did you ever go into the man's house?—I have been.

1065. Did you bring the lease with you?—Certainly not.

1066. He made his mark there, and "his mark" and all is in your handwriting?—It is.

1067. He must have been at the place that was signed?—I think so.

1068. Did you read this to him?—I did not. I told him what the rent was and the date of the lease.

1069. You did not go through the covenants?—I did not.

1070. Had he ever to your knowledge been informed before—he informed him yourself about the increase of rent?—They all knew there was to be an increase of rent.

1071. Had he himself mentioned to you what the increase of rent was?—Downes—I cannot recollect that.

1072. Did you tell him on that occasion what the increased rent was?—Yes.

1073. What did he say to you?—I don't think he made any objection; he and I were always good friends.

1074. About this bog—they cut turf on it?—They do.

1075. Has Downes any cattle grazing on it?—I cannot tell, but on all these bogs reserved that way the tenants run their cattle over them. I make no charge.

1076. They pay the rates?—If they have remained paying their rates, it was by their own neglect; they could have it revised and that part struck off.

1077. In reference now to this bog—is there some bog there where they cut turf?—There is.

1078. Were they charged anything for that when you came into the collection of rents?—I think they were.

1079. When you came in connexion with the estate

itself are you able to say they were charged anything then?—I think they were, but I am not certain.

1080. At all events you put some cost upon them for those bogs?—That is for the turf.

1081. Yes, how much was it?—I think they fast had it for ten shillings.

1082. For how much?—It is house turf. The bogs used not to be very correctly or accurately managed first. There was an old man, a bog-ranger, and they used to cut it by so many square lengths, he had a way of his own.

1083. And you adopted this new plan?—Yes.

1084. How long did it continue at 10*s*?—I cannot tell. I have not the turbary book here now.

1085. At all events it is £1 now?—Yes.

1086. Mr. Vassarox,—How many perches does it cover?—Sixteen perches. It is set on end as close as they can pack.

1087. Mr. Atkinson,—Is it sixteen perches of saved turf?—They cut the sods and put them on end as close as they can pack them, and then it is measured.

1088. Did Downes reclaim any bog there?—He has a small portion of reclaimed bog.

1089. How long is that reclaimed?—Many years. I think the working of these bogs began in the year 1848. It was then discovered that the peat which failed in other land would grow in them.

1090. Simon Lillis—what was his rent originally when you came in?—It was a man of the name of Michael Broon had this holding—the rent was £15.

1091. When did Broon give it up—what did he come to hold it?—I find Lillis's name on March 25th, 1859, the rent had been raised previous to that, and Lillis commenced at £20 a year.

1092. Mr. Reeks.—The witness has sworn here, positively, that he has been in this holding for about twenty years, that his father had it originally, that the rent was first £9, then £12, then £15!—I have no trace of the £5 rent.

1093. Mr. Atkinson.—When was Lillis first accepted as a tenant; March 25th, 1859, I think you said—at what rent?—£20.

1094. That £20 continued down to the time of the lease?—Yes.

1095. He is on this list?—He is.

1096. Do you remember this man coming to you about this lease?—I do not.

1097. How many acres of his holding was arable—did you get a survey of it in 1864?—I think it was all arable in 1864.

1098. How much of it was reclaimed bog?—About five acres.

1099. And the remainder arable?—Yes.

1100. Do you remember his coming to you at this place, Trilubber, about the lease?—I do not, and I don't think he did come to me.

1101. Did he ever say if he had too much bog he could give you some of it up?—I think that did occur.

1102. Where?—I think at Trilubber, when he came to pay his rent.

1103. Did you say to him then that he should take a lease?—No.

1104. Did you on that or any other occasion say he should take a lease or you would look out for some other tenant?—No. That lease was not signed at Trilubber, I believe.

1105. Did he ever complain to you that he had been threatened in any way by Cunningham?—No.

1106. The next is Thomas Greer. Thomas Greer is the gentleman who is poor-rate collector?—He is county cess collector.

1107. Mr. Vassarox.—Is he a high constable or a sub-collector?—He is the deputy of the barony constable.

1108. He had two farms, one called Balagh, I think?—Yes.

1109. That is the one that is the subject matter of this lease?—Yes.

1110. Was he on the list?—He was, I think.

1111. Who was the tenant when you came in?—His father.

Feb. 1, 1867  
Richard  
Staspoole,

1112. At what rent?—£18 9s.

1113. How long did that continue?—From that date up to the date of the lease.

1114. Was that in 1864, was it?—1874 I think.

1115. But I mean in 1864 when you came in?—Yes.

1116. In 1874 it was raised then to £27, you had gone over, I understand you already you had gone over the farms mentioned on the list?—I know the farms very well.

1117. Did you consider what you put on a fair increase?—I did, and I believe it is considered so by all the tenants on the place.

1118. You considered it at all events a fair increase?—Yes.

1119. Have you a farm of your own?—He has some very good land on it.

1120. Have you a farm of your own down there?—I have about fifty acres.

1121. And you know the quality of the land and what it is able to do in that district. What kind of a farm has this man?—Very good land.

1122. There was another farm for which he applied for a lease?—Yes, a small detached farm at a place called Shantrade, a sub-denomination.

1123. When did he first apply to you for a lease of Shantrade?—I think at the time he signed the other lease.

1124. Did he sign that lease at Tulliberry?—I think so.

1125. Do you remember what passed at that place with reference to the signing of this lease of Bolahs?—I don't think Tom Ghee made any demand at signing the lease of Bolahs.

1126. On the occasion he signed that lease did you promise him this other lease?—I think so.

1127. Did he apply to you previously for the lease?—I think so.

1128. Has this Bolahs been much improved?—Yes, it was a very good farm, his father was a very good farmer and managed the place well.

1129. You received that letter (produced) from him?—I did.

1130. And you gave a lease of this farm without any increase?—I think there were a few shillings added.

1131. Did he ever make any complaint to you as to having been forced by Cunningham into taking this lease or threatened?—No, nor I don't think he was a man likely to be forced, he is a very intelligent man.

1132. Did you ever tell him he should take a lease?—No.

1133. Now, I get to Kett's care. Were these three people of the name of Kett on the lands?—Yes, Joseph, Simon, and Thomas Kett.

1134. Had Joseph Kett a farm?—Joseph Kett had a farm which for a number of years had been divided in a sort of way between Tom Kett and Simon Kett. I believe Joseph Kett had it first divided with his brother.

1135. It was divided for a number of years between Tom and Simon?—Yes, and they had the fields to and fro.

1136. When did Joseph Kett die?—Joseph Kett died in December, 1875.

1137. When he died did you go to straighten the boundaries between the two parts, which Simon and Tom were to get?—Yes, on that occasion I wrote a letter to Coleman desiring him to make—

1138. Was Mr. Coleman a surveyor?—Mr. Coleman was a surveyor.

1139. Did you send him to make this division?—Yes, I wrote to him.

1140. Was he to make any valuation in addition to this?—He was. He wrote to ask me to send him a letter giving him directions.

1141. At all events he went. Did Simon Kett refuse to allow the division?—There was some dispute between them.

Mr. Beck.—I object to anything that took place between Simon Kett and Mr. Staspoole.

1142. Mr. Atkinson.—Was there a disputed boundary between Simon and Thomas?—There was.

1143. Did you serve a notice to quit?—I did.

1144. Had that notice to quit anything whatsoever to do with the taking out of a lease. Had there been any negotiation whatever in reference to the lease before that notice to quit was served?—There had not.

1145. After the service of that notice to quit was the dispute terminated and the division made?—I had a boundary line made and there were two surveys in this place also and I had to send Mr. Milward down and it resulted in that there were only twelve patches of land difference between the two.

1146. Can you give the date of the final settlement when Mr. Milward made the division?—29th October, 1876, the thing was settled.

1147. Were the first negotiations in reference to the lease subsequent to the notice to quit?—I think so.

1148. Do you remember this Kett coming to you?—Yes.

1149. Do you remember Kett's coming to you and having a conversation with you?—Tom Kett!

1150. Yes.—What time?

1151. At any time in reference to the lease?—No, I don't recollect it.

1152. Do you remember his coming to you?—Tom Kett was with me often.

1153. Do you remember what passed?—Yes, he asked me to include the other land which he held. He held a separate farm, and he asked me to include that in the lease and I gave directions—I thought at first it could be done.

1154. Did you tell this to the tenant?—I told this to Tom Kett that I would get an endowment put on his lease of the additional land and he should hold the two in one lease, afterwards there was a difficulty about that, stamp duty or something, and instructions were given to have a second lease prepared of his own holding, and I joined the two in the rent book and pass, but one receipt for the two.

1155. Mr. Beck.—Did he ever take out that lease?—He did not.

1156. Mr. Atkinson.—I see the map was absolutely put upon one of the forms of lease?—Mr. Milward put that on including the two in one.

1157. Did Kett tell you upon that occasion he had any conversation with Cunningham?—No.

1158. Where did he sign the lease?—I cannot tell you without looking at it. (After examining it.) I cannot tell you.

1159. What was the first rent on this holding?—£10 0s., I think.

1160. That was the rent of the entire of it?—Of Joseph Kett's holding?

1161. Who paid rent for that?—Simon and Tom paid half each.

1162. To whom were the receipts given?—I think they got separate receipts for it, I think I found it as when I came in as agent and continued the practice.

Mr. Vansoy.—Does that refer to Joseph's land?

Mr. Atkinson.—Yes; half, that is the subject matter of the lease?—Joseph had no lease, and it was held by him since 1851, and I put no rise on it until his life dropped.

1163. It was never raised at all until after his death, when it was divided and portion leased to each?—Yes.

1164. Had you the names of those men in the rental, returned as separate tenants, Simon for part, and Tom for part?—It always remained in the name of Joseph Kett, but I received the rents separately.

1165. Judge O'Hanlon.—Did Simon take up a lease of his land?—He did, my land.

1166. Mr. Atkinson.—Was it half they each paid?

1167. Have you got any receipts, can you tell us what was in them.

1168. Mr. VERNON.—Am I right in saying Joseph only died in 1875?

1169. Mr. Atkinson.—Yes, December, 1875. Did you pass any receipts to Simon Kett?—Yes, I passed several receipts to Simon Kett.

1170. Were there two notices to quit you served?—There was a notice to quit on Simon, and a notice to quit on Tom.

1171. Did that notice comprise not only Tom's own holding, but also his share of Joseph's holding?—Nothing but his share of Joseph's holding, nothing but the joint holding.

1172. Does it comprise the whole of the joint holding?—The whole of the joint holding.

1173. You served a notice to quit on each of the two co-partners of the joint holding?—Exactly so.

1174. Mr. VERNON.—What I wanted to know is whether the two partners in the joint holding are treated as tenants from year to year in the joint holding.

Mr. ROCHE.—They are, sir.

Mr. Atkinson.—The whole of the joint holding is comprised in the notice to quit and a copy of that notice is served on each of them.

Judge O'HAGAN.—Unless they had got separate and several parts of the premises, the notice to quit was bad.

Mr. Kelly.—It is a misapprehension to say Thomas got any portion of Joseph's holding, because Simon was the son of Joseph, and the only thing done was to straighten the bounds; we get none of it at all.

Judge O'HAGAN.—He said distinctly he had got no portion of Joseph's holding. How is that Mr. Stapcole?

1175. Mr. Atkinson.—Have you got the arrangement of Tom's separate holding?—Of Joseph's?

1176. No, of Tom's!—(*No answer.*)

1177. Mr. VERNON.—While Joseph lived, who paid the rent of Joseph's holding?—The two, Simon half and Tom half.

1178. In Joseph's lifetime?—In Joseph's lifetime.

1179. Judge O'HAGAN.—And how did they get it?—I think Joseph divided it with a brother of his who was father of Tom. Tom's father died, and Tom got his house, they were first cousins, but really it was the share of brothers.

1180. Mr. Atkinson.—When the partitioning was made, did Tom get any portion of Joe's holding?—Of course he got his own share of it.

1181. That (*produced*) is the notice served upon Tom Kett, did you also serve a notice to quit upon Simon?—I did not serve it.

1182. But you directed it to be served?—I did.

Mr. Atkinson.—It is served upon Simon, and it is directed to the representative of Joseph Kett.

Judge O'HAGAN.—My present state of cleanness about it may be quite false, at all events I apprehend very clearly what you have told us and it all squares in.

Witness.—That was my impression, but I am beginning to get bothered about it myself.

1183. Mr. Atkinson.—Here is a receipt for £10 to Tom Kett?—That is a receipt for another holding, that is a year's rent.

1184. The year's rent for the other would be only £3 1s.—£3 1s. 6d.

1185. Now, Michael Lynch, the brother, was the tenant, as we have heard?—John Lynch, was the tenant.

1186. I need not go through these documents. Do you remember after the signature of this proposal, some years after you having a conversation with Mr. Lynch, in reference to a lease of this place?—Mr. Lynch, I think, came to my place at Tullihale, with regard to this lease.

1187. Is he on the list?—On no.

1188. Do you remember what occurred, when did he come to you first of all, about what time?—First of all, I think was in—

1189. I mean the first time he came to you after the signature of this £50 proposal?—I don't recall.

1190. Do you remember if he was coming to you at all in reference to the lease?—He came to me about the lease at Tullihale, I think.

1191. What took place between you?—Really I don't recall the conversations.

1192. Do you remember did he say to you that he had expended £50 or £20?—I know as a fact that he did expend a great deal of money on the place, first and foremost he paid the brother's rent, and took up the management of the farm, and did a great deal of work on it.

1193. Did he say to you he could not pay any more rent for it than he was paying?—I don't recall.

1194. Did you say to him that he should pay £25 for the farm, that that was to be the rent?—I think I said I would let the thing stand as it was. I would not give him a lease unless he paid £25 rent, I looked upon it that I was conferring a favour upon him by giving him a lease.

#### Cross-examined.

1195. Mr. ROCHE.—All these tenants live on one townland, Mr. Stapcole, the tenants we have here?—No, they do not.

1196. Well, the greater number of them do?—Most of them do.

1197. You have been managing that property since 1863 or 1864 as I understand?—Yes, I think in 1863 Mr. Mahony died.

1198. You made no general valuation, that is no general increase of rent on the tenants until the time that you sent Mr. Coleman to make a survey, there was no general increase of rent made by you?—No, in many cases rents had been increased on the property.

1199. But you had increased the rent of several tenants from time to time during your management before this increase in 1874?—Yes.

1200. You heard what the tenants stated with respect to these increases to-day, in the main were not the statements of the tenants and the figures they gave correct, allowing 2s. or 3s. more or less?—I think they were.

1201. You had also increased the charge for turf to the tenants?—Yes.

1202. First to 15s., next to £1?—Yes.

1203. Did you not also make the tenants pay for the turf cut even on their own holdings?—Yes.

1204. Judge O'HAGAN.—Was that before the execution of the lease?—Before the execution of the lease.

1205. Do you mean turf for selling or for their consumption?—Their own turf, there are some cases in which the tenants have bog on their holdings, and I reserved the bog at the time of the letting.

1206. Was the bog included in their holdings or was it not?—The bog was in their holdings, they get possession of the land when the turf is cleared off it.

1207. Mr. VERNON.—Was the bog so land in respect of which the tenants were paying ground holding?—Yes.

1208. What they call the standing rent?—Yes.

1209. Judge O'HAGAN.—The bog was in the waste of their holdings?—Yes.

1210. And their holding was on tenants verbally from year to year?—Yes.

1211. And in what way was the bog reserved?—That I told them at the time of the letting I would cut the turf out of it.

1212. Mr. ROCHE.—All these tenants with one exception were on the holding when you became agent?—Yes.

1213. So that, in fact, you did not make an original letting to any tenant?—I did not in this case.

1214. Did you make an original letting to any one of the tenants now before the event?—I think I did, to Lynch.

1215. Lynch only, is not that so?—That is so.

Feb 1, 1862.  
Richard  
Stapcole.

1216. Then, when you came into the estate you found some of these tenants had bog as portion of their holdings!—Yes

1217. That is turf bog, and you made those tenants pay for the turf cut on the bog, portion of the premises demised to them, which turf they used for their own consumption!—Those particular tenants

1218. Did you not make the tenants pay for the turf!—Those tenants are not cutting on their own holdings at all.

1219. Not now, sir, but I ask you did you make say one of these tenants from the time you came into the management of the estate pay for turf cut on their own holding!—I cannot tell you with respect to those holdings.

1220. What did you mean by swearing here to me, in answer to my question, before you saw the effect of it on the court!—Because I was speaking generally of the tenants on the estate, and it came to my mind that I was cutting on one tenant's holding to whom I made an original letting.

1221. Then, it is not right that you ever reserved from any of the tenants who are here before the court the bog on their holdings, that is not correct!—The bog on their holdings, I did not reserve them.

1222. Then, when you stated that to the court sometime ago you were incorrect!—Stated which!

1223. You stated to the court that you had reserved from those tenants the bog on their holdings!—That would be a mistake if I said it, the lease reserved it.

1224. When you came into the management of the property, the adjoining bog, the bog which is now in your possession was used by the tenants, they cut turf upon it!—They cut turf on it.

1225. And you took up that bog into your own exclusive possession!—Yes.

1226. You demanded it from the tenants!—Yes.

1227. Perhaps you would say that they were as pleased to give up the bog as they were to pay the increased rent!—I don't know whether they were or not.

1228. Judge O'HAGAN.—Am I then to understand that the reservation of the bog on their holdings, of which you spoke, applied to other tenants, and not to these!—Other tenants, and I will explain why. All this land is cultivated, and they could not cut the turf without destroying it.

1229. Mr. Roche.—Was this land cultivated twenty years ago!—This land!

1230. Was the land held by the several tenants who are here before the court, cultivated twenty years ago!—I cannot say all, but a very great part was cultivated since 1850.

1231. Was there any bog on any of those tenants' holdings, twenty years ago!—There was, they had those bog gardens.

1232. Did you ever reserve that bog from them in any lettings made by you!—It is reserved in the leases.

1233. Ah, I am speaking of the time when you first came into the management of the property, and with great respect you ought to know that. Did you in the letting made to any of them reserve those bogs!—No, there was no writing at all.

1234. Did you understand that I was speaking to you with reference to other tenants on the estate when you commenced the management!—I thought you were speaking with respect to the turf which I sold all over the estate.

1235. You understood that I was speaking with reference to other tenants than the tenants before the Court!—I understood you were asking me generally as to the fact, whether on any holdings on the estate, I cut turf on the tenants' holdings for sale.

1236. I asked you a question as to whether you had made any one of the tenants who are now before the Court, pay for the turf cut on their own holdings!—I cannot tell you now.

1237. Will you swear you did not!—I won't swear I did not.

1238. How soon after you came into the management of the property, does that book show your dealings with the property or the rental of it!—The rental.

1239. From what date, Mr. Stapcole!—From 1864, I think, March 1864, that would be from the previous September.

1240. At what date did you take up from them the bog which is now in your occupation!—I cannot tell you, I have no note of it here.

1241. It was after you came into the management of the property!—It was after I came into the management of the property.

Mr. VERNON.—You are now referring to the large book.

1242. Mr. Roche.—Yes, sir. (To Witness)—Now you have managed that property either directly or through Mr. Cunningham!—Mostly directly because I have been very frequently on it.

1243. And you served Malachy Greer with a notice to quit because he would not give you duty work!—Yes.

1244. Did you serve a man named John Downes with a notice to quit, because a poacher said he was on the lands by his permission?

Mr. Atherton.—Objected.

1245. Mr. Roche.—Do you consider yourself down in that country!—I do, I let estates.

1246. And you let estates extensively on the lands in your own possession!—On the bog lands in my own possession.

1247. And you find that a profitable mode of farming the lands!—Yes.

1248. And you have introduced into this lease a covenant against encroaching by the tenants!—Yes, because encroaching on upland might be very injurious.

1249. But is there no enclosed bog on any of those tenants' holdings!—On some of the tenants, generally there is.

1250. Who is Mr. Coleman that you got to survey these lands!—He is a man who was a National School teacher there, he is a surveyor also.

1251. Have you got the return he made of the survey to you!—Which survey.

1252. Of the survey he made before the leases were taken out!—I have.

1253. Have you got it here!—I think I have, I have the little leading he made from the Ordnance Survey.

1254. But have you the particulars of the survey of each holding in Court!—Most of them I have.

1255. In fixing a rent on these holdings did you fix a lump sum or an acreable rent!—I fixed a lump rent, it was made upon the calculation of an acreable rent.

1256. That is you took the acreable return by Mr. Coleman, and made a calculation upon a certain acreable rent!—Yes.

1257. And you inserted the lump rent in the document drawn up!—Yes.

1258. In this survey Mr. Coleman has included the roads running through the holding!—I think so.

1259. And Mr. Coleman has included the rivers running through the holding!—Half bounds.

1260. Does the river form your estate boundary!—Part of it does, part of it runs between adjoining holdings.

1261. Does the part that runs past the particular tenant's holdings form part of the estate boundary!—Portion of it does and portion does not.

1262. At any rate half the river and half the roads were measured on the tenants by Mr. Coleman's survey!—I think so.

1263. And your estimate of the bulk rental was made on an acreable rent formed on that return!—I think so.

1264. The rent in John Downes is £12!—Yes.

1265. The rent in Malachy Greer's lease is £12!—Yes.

1266. The rent in John Lillis' lease is £25!—Yes.

1267. The rent in Simon Mahony's lease is £15 or so!—Yes.



PC. 1, 2, 1892.

Richard  
Stappole.

objected to the rent and the acreage, and that he signed the lease.

Judge O'HAGAN.—But the agreement for reference was subsequent.

*Witness.*—I must have been present when he signed that, because I am sure the old man that witnessed it never witnessed it without my calling him into the room to witness it. That man Luke Howe, was a steward, and I must have called him in to witness the lease.

1325. Mr. ROCHE.—You say, with respect to this matter of paying rates on this bog, do I understand that you allege it is by the wilful neglect of the tenants they have been paying your rates?—I don't say that, I did not get it done and it was for them to get it done, and if they had called my attention to it I would have had it done.

1326. Is it your conception of your duty as a landlord that having taken a bog from the tenants you should keep them paying your rates?—No, I admit I should look after it and I shall be very happy to refund them anything they have paid in consequence of it.

1327. Did any of the tenants ever ask a revision?—No.

1328. Did you know a man of the name of John Killeen?—I do well.

1329. Did he ask you to revise the valuation imposed upon him in respect of this bog?—John Killeen's name goes upon the bog.

1330. Did he ask you?—He might have done so.

1331. Did you put an increase of £3 on his rent then?—I don't think I did.

1332. Did you put an increase on his rent?—Yes.

1333. Was it soon after he asked you to revise his valuation you put on that increase?—It had nothing whatever to do with the revision.

1334. Mr. ADDISON.—Tell every direction you gave to Cunningham in reference to getting this lease?—I gave Cunningham this memorandum, and told him to go to the tenants and show this memorandum—that these were the acreages and valuation I had put on their farms, and if they liked to get leases for thirty two years they could have them.

1335. Judge O'HAGAN.—Do you mean that lease?—Yes.

1336. Mr. ADDISON.—You were also asked whether you had told such things to Coleman in reference to the valuation and survey; tell me all you told him?

Judge O'HAGAN said Mr. Roche had evidently spoken of Coleman when he meant Cunningham.

The Court then adjourned.

JUDGMENT.

Michael  
Cunningham.

## FEBRUARY 2ND, 1892.

The Court sat at half past ten o'clock.

MICHAEL CUNNINGHAM, sworn and examined.

1337. Mr. ADDISON.—You have been examined very often already. Do you know the holdings of these five tenants—Haugh, Kett, Lillis, and Lynch?—I do, sir.

1338. Is there any bog upon any one of those holdings?—No, there is not; I never saw any turf cut on it.

1339. As long as you know the place?—Yes; you might cut turf there if you sink down.

1340. But there is none on this?—No, sir, I never saw it cut there.

1341. First of all in reference to Haugh; did you get that list from Mr. Stappole, your master?—I was with Mr. Stappole at the time the arrangement was made about the lands.

1342. Between Haugh and himself?—Yes.

1343. What was the arrangement that was come to in your presence?—That was about the rent.

1344. As well as you can remember what was it?—I cannot remember, but I recollect at Tullaher they arranged about the rent with old Haugh.

1345. Did you yourself go to old Haugh?—I did, sir.

1346. Was that before he went to Mr. Stappole?—No, sir, at the time I remember going to old Haugh it was collecting the rents of the lease.

1347. As far as you can remember, had you any interview with him before that in reference to the lease?—I think not.

1348. Do you remember what you said to him when you went with the lease to him?—I believe he was deafened about the costs—he thought the costs too much.

1349. Well, did you ever say to him that you would make an example of him?—Never, sir.

1350. He was a decent man, I believe?—Very decent, poor man, he was.

1351. Was he a friend of yours?—He was very friendly with me, and I was with the whole family equally so.

1352. Used you generally to get up at his house?—Yes, sir, and whenever he came to Ennis, to Mr. Stappole, he used generally to stop with me—may be stop two or three days.

1353. It is not true that you said you would make an example of him if he did not take a lease?—Never.

1354. Is it true that you said Mr. Stappole directed you to tell him that if he did not take a lease he would be worse off?—Never.

1355. Did Mr. Stappole tell you that?—Never.

1356. Did you say that to him?—No.

1357. Do you remember whether there was any talk about surveys?—No, I do not.

1358. He was not upon this list at all?—He was not, sir.

1359. Do you remember getting a list from Mr. Stappole?—I remember something like it.

1360. Are you able to say whether that (produced) was it?—I cannot say, sir.

1361. But at all events you got a list?—I did.

1362. When you got the list did you go to the tenants with it?—I did.

1363. Did you get a message from Mr. Stappole to give to them?—I got that list to explain it to them.

1364. Did you explain it to them?—I did.

1365. Did you give them the directions you got?—I did, sir.

1366. What did you say to them?—I asked them whether they agreed with these rents and for taking out a lease, and they told me they would, except one man alone.

1367. What was his name?—Since Mahony.

1368. What directions did you get from Mr. Stappole to say to them with reference to that?—Nothing only the rent, and ask them whether they take leases, that is if they chose they could get them.

1369. Since Mahony, I think, is the next; do you remember going to Mahony?—I do, sir, Mahony was sick at the time.

1370. Do you remember going a second time to him?—No, sir; I believe, he had fever, and I went not like to go where the like would be.

1371. Had you any conversation with him at all before he signed the lease?—I believe not; there was some arrangement made about it, but I had no conversation one way or the other with him.

1372. Were you present when he signed the lease?—I think I was, it was at Tullaher, I am not certain.

1373. Can you remember anything that took place, any conversation that took place between him and Mr. Staepole?—No, so far as I recollect there was an arbitration between them, two men to make some arrangement; I cannot really speak about Simon Mahony.

1374. Do you remember whether you went to him to ask him to go to Tallaher to sign the lease and he refused?—I do not; all I recollect is that there was some arrangement about it, Mahony was to get a man and Mr. Staepole to get another.

1375. The next one is Malachi Green; do you remember his coming to Mr. Staepole?—I do, sir.

1376. Were you present at Tallaher when he went there?—I believe he went to Ennis, sir.

1377. Do you remember his asking you was there any time to be put upon him?—I do, sir.

1378. And what answer did you make to that?—I cannot really tell you now, sir.

1379. Is it true that you said the rise was only a trifl?—I cannot tell, sir.

1380. Were you present when he signed his lease?—I believe I was, sir.

1381. Is that (pointing as witness) your handwriting?—It is, sir.

1382. Can you remember anything that took place there at that time?—I showed him, I believe, where he would sign the lease, and explained the rent to him.

1383. Do you remember having any conversation with Thomas Kett?—I believe there was some mistake on the part. I came to him about it; he signed the old lease and wanted to get a new lease of the whole thing, and have the old lease cancelled.

1384. Is that all you remember about it?—That is all.

1385. Did you say to him that he should pay an increased rent?—I had nothing to say to him about it.

1386. The next, I think, is Lillis. Do you remember going to Lillis?—I do, sir.

1387. Do you remember anything that passed between you and Lillis distinctly?—I remember he agreed with the list I had, that is all.

1388. Did you tell him he would have to sign the lease?—I told him he could get a lease if he chose.

1389. And is that all you remember?—That is all, sir.

1390. Do you know Michael Lynch?—I do, sir.

1391. His brother's wife was looking for the place?—The brother's wife was wanting to get back into the place.

1392. Did you ever say to him that if he did not take a lease it would be taken from him and given back to his brother's wife?—No, sir.

1393. Did you say Mrs. Staepole had interfered about it?—No, sir. Mr. Lynch asked me to speak to Mr. Cullinan to get the lease quick, because he could not get no good of the brother, his cattle were going on the place, and he wanted somebody as a caretaker. The brother told me he was treating him very badly.

#### Cross-examined.

1394. Mr. Baché.—You were with Coleman when he was making this survey of this place?—I cannot say I was with him, I came there, I believe.

1395. Do you recollect when it was?—No, sir.

1396. Do you recollect the year?—I don't recollect anything at all about it.

1397. Do you recollect Coleman being there?—I do, sir.

1398. And you recollect walking some part of the land?—I walked the whole land the same day.

1399. And you helped him with the chain did you, the surveyor's chain?—I cannot say had he any other body with him or not, I believe he had.

1400. And you cannot recollect the year in which that occurred?—I cannot, sir.

1401. Have you a good memory?—I don't recollect the year.

1402. Have you a good memory?—Perhaps I might not recollect.

1403. You have a good memory when it is your business to swear there was no threat used?—There was no threat used, sir.

1404. Do you recollect when you got the document from Mr. Staepole?—I do, sir.

1405. When?—I cannot tell you, sir, what time.

1406. Was it in the year 1873?—I cannot tell you what year.

1407. Or 1874?—I won't swear it.

1408. 1875?—I cannot tell you, sir.

1409. 1876 or 1877?—I cannot tell you what year.

1410. You went to all the tenants, can you tell that fact?—I went to what tenants were on that ploughland, except one alone.

1411. And who was the one?—Simon Mahony.

1412. And you have the most distinct recollection you did not go to Simon Mahony?—I have.

1413. And if Simon Mahony swore—though you cannot recollect the year in which you went on those lands, not even between 1873 and 1876—if Simon Mahony swore you went there three times you would contradict him?—Would you ask me to go in where never was.

1414. If Simon Mahony swore you went there three times you would contradict him?—I did not go, sir.

1415. You told all the tenants the increase of rent that was to be put upon them?—I did.

1416. You told Michael Haugh what increase of rent was to be put upon him?—Which Haugh?

1417. The man that is dead?—I had no arrangement with him, it was with Mr. Staepole he made the arrangement altogether.

1418. And you can swear positively you never saw Michael Haugh about the rent?—I never saw him about the rent.

1419. You will swear now that before the lease was taken out you never told Michael Haugh about the rent?—I had no arrangement about the rent at all.

1420. Did you ever speak to him about the rent?—I might say to him that the rent was settled by Mr. Staepole.

1421. And being scolded by Mr. Staepole?—I had no interfering with it.

1422. But you may have seen him about it?—I may have seen him.

1423. Before the lease was taken out?—I might have seen him, I see him at different times.

1424. And now when two witnesses swear they saw you there, though you cannot recollect the year you were on the lands, you will undertake to contradict them and say you never saw him at all, will you?—I don't understand you.

1425. Two witnesses have sworn they saw you speaking to Michael Haugh?—I might be speaking to him, don't I tell you, different times.

1426. You telling tenants they were to get leases?—That is if they chose.

1427. And you always said "if they chose"?—Yes.

1428. And they were all quite pleased to pay the increased rent?—What was there were all quite pleased except Mahony.

1429. And was Simon Lillis pleased to pay the increased rent?—The whole of them, sir.

1430. Were you in Mr. Staepole's employment the time the bog was taken from them?—What bog?

1431. The mountain now in Mr. Staepole's possession?—I never saw it with them.

1432. Were you in his employment at the time the mountain was taken from them?—I never recollect the mountain being taken from them, I never saw anything with them only what they have.

1433. Do you mean to swear here that there is no turf bog on any of those holdings?—You could get turf if you chose to sink down on the land, but their holdings at the present time is all tillage land.

Feb. 1 1863.  
Michael  
Carteiglione

1434. How long do you know the holdings?—Since I am coming to the place, sir.

1435. How many years?—I cannot tell you, sir; I know since Mr. Stacpoole was appointed agent.

1436. Is it twenty years?—I cannot say for it.

1437. Is it eighteen?—I don't know.

1438. Is it fifteen?—I cannot say.

1439. And is that the answer you give, that you won't say whether it is twenty years, or eighteen years, or fifteen years?—I have been there since he was agent.

1440. And you will undertake to swear, as long as you know the holdings there was no turf on them?—I never saw turf cut on them.

1441. You know Stann Lillis's holding?—I do, sir.

1442. How long have you known it?—As long as I know say of the rest.

1443. Will you give me some straight answer, how

long do you know it?—I don't know how long; I know since he was appointed agent. I know the place.

1444. And Stann Lillis had no bog on his holding when you first knew it?—No, sir. I never saw him cut turf on his holding.

1445. Do you know any tenant on the holding who cut turf?—No, sir.

1446. Not any single tenant?—Not on that holding.

1447. Do you know any tenant under Mr. Stacpoole who has bog on his holding?—Not one, Mr. Stacpoole has all the bog reserved to himself, you might get 200 acres in one stretch of bog.

1448. And you don't know a single tenant with no acre of bog on his holding?—No, sir.

1449. And all the tenants have been swearing here about reclaimed bog, and part of their holdings being bog, is a pure dream!—They might have reclaimed it, but as long as I know the place it was tillage land.

[*See* — — —]

Patrick  
Coleman.

PATRICK COLEMAN, sworn and examined.

1450. Mr. Atkinson.—You are a surveyor?—I am, sir.

1451. You are also an agriculturist?—I am, sir.

1452. How long have you been an agriculturist?—Since the year 1860.

1453. What public appointments have you held as an agriculturist?—To three public bodies.

1454. What bodies?—The guardians of Kenmare union, in connexion with the Commissioners of National Education, the Encumbered Board of Guardians in connexion with the Commissioners of National Education, and the Edenderry Board of Guardians in connexion with the Commissioners of National Education.

1455. Was it on the model farms you were employed?—Yes, they were just connected with the agricultural department. I may preface my answers by saying I am the son of a land steward.

1456. In that time also have you been employed for several landed proprietors for the purpose of making valuations and things of that kind?—Yes, I have made extensive valuations even in the county Clare. I have been employed by Mr. John Mabon, Q.M., an extensive land agent, to survey, map, and value 700 acres of the lands of Ternan West, within three miles of Killarney, for Mr. Wilson Fitzgerald. From that day to this I have never heard a word of complaint of my valuation.

1457. Have you also valued other countries?—Yes, I have valued, before I came over to Clare, for the late Colonel Stokes of Tralee; valued 300 acres of land in the neighbourhood of Tralee.

1458. Have you also valued for Sir Henry Donovan?—I have not, but Sir Henry Donovan knew me, his family knew me.

1459. Did you go upon those lands of Mr. Stacpoole to make a survey?—Yes.

1460. Did you also go to make a valuation?—Yes.

1461. Have you got the survey you made?—I have.

1462. How did you make the survey, did you make a map?—I made a map and made what is called a series of the survey, that is by qualifying holdings, giving the extent of the several qualities, placing a valuation on each, and then you strike an average rate, but I omitted the pence and halfpence making it round numbers, like the Chancellor's budget.

1463. Are these (produced) the contents of the different farms here?—Yes.

1464. Mr. Vernon.—Were your surveys chain-surveys or triangulation surveys?—It is a system of extension of triangulation, the very best system.

1465. Mr. Atkinson.—Did you also make this map?—Yes.

1466. The contents are naturally taken, did you measure in roads and rivers, or how did you manage that?—I surveyed half-breaks, not rivers, no water, I considered taking half-breaks that it is only a proper thing, for when a road passes a holding, of course, if

you have not a road the tenant must have a headland, which will be considerably more waste than a road.

1467. Mr. Vernon.—Your maps don't show the half-breaks?—My calculations do.

1468. Mr. Atkinson.—You did not make the maps on the basis?—No, I believe they are taken from this.

Mr. Vernon.—On your maps you show set measurements, you don't state the contents, but in the body of your base you show the gross measurements.

1469. Mr. Atkinson.—Did you also make any survey leaving out the roads, and marking out the not result?—I don't recollect.

1470. Are the roads indicated there of that nature?—They are farm roads indicated on that map, this is the only public road.

1471. Have you got the valuation that you made?—I saw it just now.

1472. Is this (produced) it?—Yes, it is.

1473. These red marks—is that your valuation?—Yes.

1474. And these are the calculations?—Yes.

1475. Mr. Vernon.—These items are all gross, there is no deduction for the roads on this?—I cannot swear, half-roads are included.

1476. Judge O'HAGAN.—What do you call bog, is it reclaimed bog, or bog in a state of bog when you saw it?—Oh, reclaimed peaty soil, very valuable soil.

1477. Mr. Atkinson.—You know this holding yourself?—I do.

1478. I see you have not indicated any unreclaimed bog on the holding?—Not belonging to the tenants.

1479. On the holdings themselves is there any unreclaimed bog?—Not a particle in the world.

1480. Mr. Rocke.—Not at present?—Not for the last fourteen years that I have known the place. There was turf out in a drain, no more than that.

1481. Mr. Atkinson.—Were rents high at that particular period, 1874-1875?—They were high.

1482. And was that a fair value?—Very fair, and even to this day.

1483. What kind is the land?—The land is of three qualities, it is peaty soil, very productive soil, and it is also meadow land, and alluvial.

1484. And you know the letting of land about that district?—I do.

1485. You live in the midst of these people themselves?—I do.

1486. Did you go over all these farms?—Oh, yes, minutely.

1487. Did you see any of the tenants, there, themselves?—I did.

1488. Did you see all of them?—Well, I cannot say.

1489. Did you talk to any of them about their leases?—Not that I remember, I never spoke to one of them about their leases.

1490. Did they ever speak to you about them?—Not that I remember.

1491. Do you remember Lillie?—I remember Tom Keel speaking to me not long since.

1492. But at the time of the lease?—I don't recollect.

1493. Do you remember a dispute about a boundary?—I do; and I declined going on that survey at first, they were particular friends of mine, and I wrote to Mr. Staspoole to that effect.

1494. Ultimately you went on the survey?—I did.

1495. And you fixed this boundary between them?—Yes.

1496. Do you remember having any conversation with old Mahony in reference to your survey?—Oh, yes, he complained I had his children coming to my school at the same time, and I felt very much that he would disbelieve my word, and I said to him, "God is third and I will be satisfied to pay if I am in error, but be sure that I will take the other side of the claim with that man," so that we would take the same notes and arrive at the same conclusion.

1497. Did he ever inform you he was going to get anybody to survey?—No. I think about a week after the survey being made I heard of it, and I wrote to Mr. Staspoole.

#### Cross-examined.

1498. Mr. Rose.—You are a National school teacher there?—Yes, for the last fourteen years.

1499. And then when you came as a National school teacher, that was your first acquaintance with the district?—Yes.

1500. Mr. Staspoole is your poteen in this National school?—Yes.

1501. And you have a cottage or holding under him, or in connection with the school, which?—I have not.

1502. You must have some house or holding?—I have a house, but not from Mr. Staspoole. I pay rent to one Keel, a poor law guardian. I hold an acre of bog from Mr. Staspoole; I pay £3 rent for that acre.

1503. You say you are an agriculturist?—Yes.

1504. What is the size of the holding attached to the National school?—There is no holding attached to the National school.

1505. What exactly now is—because in my ignorance I don't quite appreciate—what is an agriculturist?—A man capable of cultivating land, and a man who professes to teach and is competent to teach the science of agriculture. I define it as that.

1506. How much land have you at any time of your life ever actually cultivated?—Well, I assisted my father. I have superintended the cultivation.

1507. When?—I have superintended the cultivation of land from—that is aided my father.

1508. When was that?—From 1849, I think, to 1857.

1509. Where was this experience acquired?—Under the Marquis of Lansdowne.

1510. What age are you now?—I was born 29th February, 1836.

1511. So that from the time that you were fourteen years of age until the time you joined the National Board you had some experience in the cultivation of farms?—Certainly; and as there are representatives of the Press here I wish to say—

1512. Don't mind the Press, sir!—I have my character, and your lordship will allow me to defend myself.

1513. I am afraid you are thinking more of the Press than of your cash!—It is my reputation I am concerned for. From the age of twelve years until I left my father—that is 1857—until I became a teacher, it was known I was one of the most hard-working young men in that district as a farmer, and that I had a passion for farming all my life.

1514. Did you ever develop a passion for increasing rent when employed by the landlord to value?—No. I never think.

1515. At any rate, to come to your experience,

since 1856 you have had no practical—that is you have had no land in your own hands—I had.

1516. Where?—I had. I did not say 1856. I Ans 2. 1856.  
Parish  
Census.

1517. Well, 1857?—That is the first year I was appointed.

1518. Since 1857—come to it at once—you have had no land in your own hands as a farmer?—Not for myself. I have been working for public bodies.

1519. And you have been all that time a National school teacher?—And agriculturist.

1520. But your chief employment has been as a National school teacher?—Yes, and head surveyor.

1521. I believe you generally look at the surface of the land when you are surveying?—Well, I will make you an answer to that. I have all my life looked at the surface. I depend more on the eye than on the spade. I have been on three properties since December 1st, preparing for the Sub Commissioners.

1522. Who employed you?—Mr. Fitzgerald Student, Mr. Walsh, and Mr. Mahony, three.

1523. That is three landlords?—Allow me now to finish. I am going to answer to a question. I consider a practised eye a better test than some persons digging up a sod of earth, unless you have a uniform soil. Let us take an alluvial soil, for instance—

1524. We cannot have a discussion on soils here. It is the practised eye you rely upon?—Certainly. I know what land is by looking at it.

1525. Since 1856 or 1857 you have relied chiefly on the practised eye?—Certainly, and I have not seen a man to dig a sod of earth for it, though I knew it has been done at the time of the Ordnance Survey.

1526. This practised eye has worked so well that you are now employed by three landlords to value for them?—Well, I suppose my reputation.

1527. Your reputation for increasing rents—Mr. Coleman, has won you the approval of three landlords?—You may say it, but I don't say it.

1528. You got a letter from Mr. Staspoole directing you to go on this holding, have you got that letter?—Yes.

1529. Of course Mr. Staspoole told you to make a fair survey of this holding?—Yes. I have the letter now (produced).

1530. "I send you by this post a letter from the Board, they require a different receipt from that sent by you." That was a letter in his capacity as manager of the school?—Yes.

1531. Where is the letter you got instructing you to make the valuation?—I will be able to get the letter.

1532. Have you got it here, sir?—Allow me, I am going to answer; I came unprepared, I got a telegram at ten o'clock on Monday, I had to run to Killiney at seven o'clock, and even it was last night I procured this map. I sent that letter about a week ago to Mr. Staspoole, and going over letters I found that letter of Keel's and I sent it to Mr. Staspoole, not knowing that I would be required here.

1533. You sent it to Mr. Staspoole thinking it might be of use?—Certainly, to Mr. Staspoole.

1534. You were anxious to help Mr. Staspoole in his case against the tenants?—I am anxious to assist Mr. Staspoole in every possible way as far as justice is concerned.

1535. Now, tell me, look at that document (produced) when did you make that up?—At the time it is dated, 1876.

1536. What time did you make your valuation?—Until I had this map in my hand and saw that letter I was under the impression it was in the year 1873, but I find the map is dated May, 1874.

1537. Then it was after May, 1874, you made the valuation?—It must be.

1538. Was Cunningham with you when you made the valuation?—No.

1539. Was he with you when you made the survey?—No, he came to me when I was concluding the



Well, it was in a poor state, there were actually rushes growing in some of it.

16. For want of drainage!—And for want of manure; it was very wet.

17. Were there any buildings on it when your father took it in 1824?—There was a little thatched house of a tenant on one side of the yard, and another thatched house, that other people were living in on the other side—tenants of Archibald's, ploughmen.

18. Labourers!—Yes, sir.

19. Were they mud walls and thatched!—Yes, sir.

20. How soon after your father got it did he begin to build!—In about a year.

21. And what buildings did he put on it!—There was the foundation of a dwelling-house and he finished it, and made a fine dwelling-house of it.

22. Was that a slated house!—No, sir, but we thatched it; the slated house was the old castle that we improved.

23. Besides the dwelling-house, did he make any other buildings there!—He did, sir.

24. What were they, tell us shortly!—A barn that was there, a potato-house was made of it in place of the barn; likewise the foundation of that was built up apace and be finished it and roofed it, and we built a cow-house.

25. You built a dwelling-house!—Yes, sir.

26. And cow-house!—Yes, sir.

27. And a barn!—Yes, sir.

28. Do you remember these houses being built yourself, you do, of course!—Oh, yes; perfectly.

29. Do you remember the second farm, that was Hartford's farm, No. 2!—Yes, sir.

30. When did your father take that!—To the best of my recollection it was 1835.

31. About how many acres were in Hartford's farm?—They called it forty but it was thirty-eight.

32. Was it Irish!—Irish.

33. What rent did he take Hartford's farm at!—  
38s., I think, an acre.

34. Did Hartford's farm adjoin the first lot!—Yes, sir.

35. Now, between 1824, when he took the first farm, and 1845, when he got this notice to quit [presumed], had you improved this holding!—Oh, very much.

36. How many brothers and you were living on this land!—There were nine of us, eight and myself; we brought thousands of tons of dung to that farm—even last year I put more than 500 tons of dung, which is lying on the ground there.

37. Did your father go to live on the first farm!—He did, sir.

38. With his family!—Yes.

39. Were there nine of you boys!—Yes, sir.

40. Grown up young men!—Yes.

41. And did you work on the farm!—Yes, sir, all of us.

42. Do you remember being served with that notice to quit!—I do, and it was a great heartbreak to me when we got that notice.

43. This is a notice to quit, dated 26th September, 1845, and calls upon Richard M'Kenna to give up "all that farm of land which you hold from me as previously in the occupation of the Byrne family, afterwards the Hartford family, and not included in your original holding from me!"—We were after dinging the forty acres twice over when we got that notice.

44. Now, after the service of that notice to quit, did you go to see the landlord, yourself or your father, about taking this place!—Oh, yes, we went in to him, to speak to him, to Colonel Lewis after that, and, I think, he gave my father then a two years' lease, I think so.

45. After the expiration of the two years' lease what happened, did you take the place!—Well, sir, there was a neighbour, that was books, of the name of Murphy on another farm.

46. That was farm No. 3!—Yes, and we had to give £150 for the farm we were after manuring.

47. That is No. 3!—And to take a poor farm, Murphy's farm along with that.

48. Was it you or your father that took the two farms!—When my father found Colonel Lewis wanted £150, "Oh," said he, "John, I will wash my hands out of it, I am heart broken."

49. And was it then you took it!—Yes, I took it.

50. And did you pay him the £150 fine!—I did, sir, by instalments.

51. And can you tell us what year it was that you became the tenant of lot No. 3 and No. 3!—I really forgot.

52. It was after the two years' lease expired!—Yes, sir.

53. Some years after the notice to quit!—Yes, sir.

54. At what rent did you take these two holdings!—I forgot what lease he said he would give me, but he never gave us any lease.

55. But what rent!—38s. an acre.

56. That is for the two holdings!—Yes.

57. How much was in the third farm!—Thirty-two acres and a-half or something that way.

58. About seventy-six acres in the two!—Yes, sir, I believe so.

59. Now was that a short time before your father died!—I think about two years before my father died.

60. And in what year did your father die!—I really forgot.

61. After your father's death you get the first farm, farm No. 1!—Yes, sir.

62. And you were then tenant of the three farms!—Yes, sir.

63. They were all adjoining were they!—Yes, sir.

64. Do you remember the fourth lot, that is Joseph's farm!—Very well.

65. Who had that before he got it!—A man of the name of Joseph Byrne.

Mr. Saffron.—The proposal is dated 1st July, 1851, we call for the original.

Dr. Boyd.—We cannot give what never existed.

66. Mr. Saffron.—Did you ever see a proposal signed by Joseph for Byrne's farm!—Yes, sir, I did.

67. Did you go the landlord, Mr. Lewis, about it!—Yes, sir, and Colonel Lewis came down one day.

68. That is down to the lands!—Yes.

69. Now tell us every word he said to you and Joseph said to him!—He sent for my brother, and we were an hour talking when my brother came up, I really forget what is this that passed, but he said he would set the land to my brother, and said we would I not go security for him, and I told him I would.

70. And was that after your father's death!—Yes.

71. Was the rent that Joseph was to pay fixed!—Two guineas, I think.

72. And after that conversation with the landlord was Joseph put into possession!—Yes, sir, him and I both.

73. Who put you into possession!—The caretaker.

74. And where did he put into possession!—Why we were both there.

75. You were both on the spot at the time!—Yes, I really forget which, he gave it to us both at the time, I think.

76. At any rate you did not agree to take it!—No, sir.

77. But your brother did!—Always for my brother.

78. You think it was at two guineas an acre!—Yes, sir, to the best of my opinion.

79. When your father died and after you took farm No. 3, what rent were you paying for the three farms!—The first old farm was 50s. Irish, that was never raised.

80. If you can mention the yearly rent it would be better!—£31 6s. 6d. was half-yearly.

81. That is for the first!—That was never raised.

82. Then for the second farm!—I think it was 38s. an acre.

83. What was the half-yearly rent!—The half-yearly

Mavis, 1852.

John  
M'Kenna.

March 6, 1882  
John  
McKenna.

rent of farm No. 2 and No. 3, we used to lodge them together, about £72, I think for the two farms.

84. Was that the yearly rent?—No, half-yearly £72 ls. 6d.

85. For No. 2 and No. 3?—Yes, sir—no, but for Nos. 1 and 2 farms, for the first and second farms, forty acres, that was the rent.

86. And the third, what was the rent of the third?—Before our landlord "ran" us, £115 was the half-year's rent of the three farms.

87. When was the rent first raised?—When we got that notice.

88. And what was it raised to, the half-year?—Well, it was four or five times it was raised and I really cannot tell what.

89. Now in the three farms that you hold how much land was there?—101 acres.

90. And two rods, I believe?—I believe so, some of the marsh is measured on me, that is outside not much use to me.

91. I believe this land lies on the seashore?—Yes.

92. And how many acres had Joseph in farm No. 4?—Something about 35 or 38.

Mr. Sullivan.—I call now for the letter written by

Joseph McKenna, in 1871 or 1870.

Dr. Houston.—Letter of 12th May, 1870.

Dr. Boyd.—We haven't it.

93. Mr. Sullivan.—Were you aware of Joseph having written in the year 1870, for a reduction?—Yes, sir.

94. Now would you give us the answer. Do you know did he get that letter (produced) from Mr. Lewis, of May 14th?—Yes, I remember him showing it to me.

95. We read this letter 14th May, 1870, addressed to Joseph McKenna. Now I want the letter which came from the solicitors, notice of increase, 6th March, 1872. Do you remember getting this letter (produced) of 6th March, 1872, from the agent Mr. Mason?—Yes, sir, I do.

Mr. Sullivan.—It is addressed to Mr. John McKenna (reads letter). Now I ask for the tenant's reply to that letter.

Witness.—I beg your pardon, sir, that is what broke my neck.

Mr. W. Fry.—I have not it.

96. Mr. Sullivan.—Did you write this answer to the landlord?

"My brother and I got your letter of the 6th March, informing us that our rent would be raised to £3 10s. per acre from the 25th March, &c."

Did you write that to him?—It was my brother wrote it.

97. Did you get any answer to that?—I think, sir, we did, that he would not consent to it.

98. Now give me the notice to quit of 1873 (produced). Were you afterwards served with that notice to quit?—Yes, sir, I was.

99. Do you remember when you were served with it?—Indeed I do, sir.

100. When was it?—I forgot the day.

101. 24th March, 1873. Now we give that in evidence. Was possession demanded after it expired?—No, sir, I think not.

102. You don't remember that?—I forget that. Upon my word I believe they did. I think they did. Oh yes, sir, now I recollect they did demand possession.

103. Who came to demand possession?—Mr. Mason, the agent.

104. Was that after you got the notice to quit?—It was.

105. And then you got the ejectment?—Oh before I did.

106. Do you remember coming to court for the trial?—Oh yes, sir.

107. And was it on that day you signed the agreement to take a lease?—Yes, sir.

108. Do you remember signing that agreement for a lease (produced)?—Oh yes.

109. Where did you sign it?—In the court.

110. And you afterwards signed the lease?—Yes, sir.

111. (Least produced).—That is your name and handwriting?—Yes, sir, it is indeed.

112. It is made 3rd July, 1874, pursuant to that agreement. Now have you been able to pay the rent in that lease?—No, sir, I paid it as long as I could.

113. You know the state those lands were in when you got them?—Indeed I do well.

114. Have you continuously from the time you got them improved them?—Continuously improved them, but since the last couple of years we could not improve them on account of the heavy rains, but the last year we put out 500 ton of manure, that is on the ground this minute.

Mr. Vernon.—Was there any agreement in writing at the time the £150 was paid for taking the other lot.

Mr. Sullivan.—No, sir, it must be in respect of Nos. 2 and 3, because No. 1 was in possession of the father and remained in his possession until his death, when this man obtained it under his will.

Cross-examined.

115. Dr. Boyd.—How many solicitors have you had acting for you, McKenna, at different times—attorneys?—Well, indeed, I cannot tell how many.

116. Did you know Mearns, Heath and Percy?—Where do they live?

117. They don't live anywhere now. Had you ever them acting as your attorneys?—I don't think I had, not that I recollect.

118. Do you know Mr. Plunkett?—I do, sir.

119. Had you Mr. Plunkett acting for you?—I had.

120. And did you know that Mr. Plunkett arranged if there was any dispute about the lease it was to be left to Mr. Butt?—To Mr. Butt in the court.

121. You have got two sons, I believe, have you not?—Yes, sir, I have, and more.

122. You have John and Patrick have you not?—Yes, sir.

123. Were you anxious that they should get the farm?—Yes, sir.

124. Was it with your consent the arrangement was made that they would take the farm from Mr. Lewis instead of you?—Well I think Mr. Lewis approved of it, and I agreed to it too.

125. Now you knew of this arrangement with the excessive rent?

—27th April, 1882. We propose and agree to take from you as lease the lands of Sestown East, now in the possession of John McKenna, senior, containing in the whole 101 acres, for a term of thirty-one years from 25th March, 1882, at the yearly rent of £218 10s. 6d., the lease to be in that form and to contain the covenants, clauses and conditions contained in the draft lease, and to be subject to us on our handing up to you the old lease under which said lands are held by John McKenna. You are to make a reduction to us in the rent for the first two years, accepting an amenable rent of £3 per acre for two years.

"Your obedient servants,

"JOHN MCKENNA, AND PATRICK MCKENNA."

Those are your two sons?—They are.

126. And it was with your agent they were going to take it from Mr. Lewis?—Well, indeed it was against my will with such a high rent.

127. Was it against your will that your sons were going to take it?—Well, no, I won't say that.

128. But you knew they were going to take it at the same rent at which you had it?—That was against my will.

129. You would like to have it for nothing?—No, sir, I am not one of those, I would like to pay a fair rent.

130. Did you know that your present solicitor was the gentleman who prepared that, Mr. Sullivan, that proposal?—Well, perhaps so.

131. Did you know that the leases were prepared

as that—I did not know it, sure the leases were never made.

132. Did you know the leases were prepared on it, were drawn out—I did not know, Mr. Fry told me to call about it.

133. Where was your old lease?—In the bank.

134. Don't you know that agreement with your son had to go off in consequence of your not being able to get up your old lease from the bank?—To go off where?

135. Not to be executed, to be broken?—Sure my son did not go off any place?

136. Did you know the agreement was broken in consequence of your not being able to get up your old lease?—Oh yes, I knew that.

137. Did you ever read that (*document produced*)?—I am a very bad reader of writing.

138. Here are the draft leases carried out in consequence of the proposal of Mr. Scallan, dated the blank day of blank 1880. "We approve of the within lease, J. L. and W. Scallan, solicitors for the lessors, May, 1880." That is the draft proposed by them and altered by them, and that is the engagement in accordance. Do you recollect the time that you had the case in the Chancery Court against Mr. Lewis?—I do, sir.

140. You were not there at it, I believe?—In the Chancery Court?

141. Yes?—Mr. Plunkett was there.

142. That was for an old lease of 1824?—Just so, that we had a right to get, by every right in the world.

143. Did you ever get a receipt for the rent from Mr. Lewis?—To be sure we did.

144. Where are they?—From Mr. Mason.

145. Where are they?—They are not here now.

146. Where are they?—I have them, they are at home.

147. Don't you think it was quite right for you to leave them at home?—Why so, sir.

148. Because then we could not read them?—You could not read them?

149. Not when they are at home?—Oh, well—

Judge O'HAGAN said every receipt ought to have been brought.

Witness.—My lord, we did not get the last receipt. It was bank dockets we used to have.

150. Dr. Boyd.—Did you get receipts from Mr. Mason?—We did (*receipts produced*).

Dr. Boyd.—Here are some produced. "Received from Mr. John M'Kenna the sum of £167 4s. being one half-year's rent due me out of his holding in Senton, Swords, county Dublin, due and owing 29th September, 1869," dated 29th November, 1869. The next is "14th June, 1870. Received from Mr. John M'Kenna the sum of £167 4s. being a half-year's rent due me out of his holding in Senton, county Dublin, ending 29th March, 1870," and this includes the whole, 1871, 1872 and 1873.

March 6, 1888.

Tela  
M'Kenna.

#### Re-examined.

151. Mr. Sullivan.—In what manner used you and Joseph pay your rent?—When we were lodging in Latouche's bank he would lodge his part and I would lodge mine.

152. Down to what year did you continue to lodge it in Latouche's Bank?—I cannot remember.

153. When you lodged it in Latouche's Bank did you get any receipt from the landlord or agent?—Not one, only the receipt we got out of the bank.

154. To whom did you give these lodgement dockets?—Mr. Plunkett, I think.

155. Each of you lodged your own rent, and got one acknowledgement from the bank?—Yes.

156. Did you as a matter of fact leave any of your receipts at home when you came here to-day?—I don't think I did; I could not get them.

157. Were you not told to bring them all in?—Certainly, I was and could not get any of them, the time the house was burned some of the papers were burned.

158. Dr. Boyd.—When was that?—It was two years ago, between eleven and twelve o'clock in the day.

159. Did you not tell me five minutes ago you left the receipts at home?—I could not get them to leave.

160. Did you tell me five minutes ago you left them at home?—I could not get them, and I don't know whether there are any in it or not.

James  
Plunkett.

#### JAMES PLUNKETT, sworn and examined.

161. Mr. Sullivan.—In the year 1873 did you act as solicitor for John and Joseph M'Kenna?—I did.

162. Did they then lodge with you a number of documents?—They did.

163. Did you give them that receipt (*receipt for documents produced*)?—Yes, it was given by my son.

164. It is a receipt for documents 8th October, 1873, and I find amongst other documents specified "parcel containing 117 receipts, stated to contain 117 by Mr. M'Kenna." Have you searched for those receipts, Mr. Plunkett?—Yes.

165. Have you made a careful search for them?—My son was searching for two days.

166. Have you been unable to find them?—Unable to find them.

167. Take that letter (*produced*) into your hand, did you write and send that letter to the landlord, Mr. Lewis?—I did.

Mr. Sullivan.—It is dated 27th October, 1873, and is as follows.—(*Reads letter*).

#### Cross-examined.

168. Mr. French.—Mr. Plunkett you acted you say as solicitor for these M'Kenna?—I did.

169. You were their solicitor in the Chancery case of M'Kenna and Lewis?—Yes.

170. Mr. Sullivan.—I beg your pardon, a moment, did you receive that reply (*produced*)?—I did.

Mr. Sullivan.—It is dated 28th October.—(*Reads reply*).

171. Judge O'HAGAN.—Did you receive my letter from Mr. Fry with respect to it?—I am not aware now my lord, I may have. All the papers I had are in Messrs. Scallan's possession now.

172. Mr. Sullivan.—Is that (*produced*), one of the letters you got from Messrs. Fry?—Yes, I received that.

Mr. Sullivan.—"Dublin, 14th November, 1873," (*reads letter*).

173. Mr. French.—You acted as solicitor for the M'Kenna you say on the Chancery case?—Yes.

174. I presume you had counsel?—I had.

175. Were you present at the hearing of the motion?—I recollect being in Court and settling the case.

176. In the Chancery Court?—In the Chancery Court.

177. Would you just take that in your hand and tell me if those were the terms?

178. Judge O'HAGAN.—Do you mean to say settling it by the agreement?—By the agreement.

179. Was that done in the Chancery Court or the nisi prius Court?

180. Mr. French.—Was there a settlement come to in the Chancery Court?—Really, I forgot almost all the facts, I was not aware I was going to be examined here to-day with reference to the history of the case. I thought I was only going to be examined about the loss of the documents or I would have looked up the history of the case.

181. Have you any recollection about what occurred in the Chancery Court?—There was an agreement given

March 6, 1881

James  
Plunkett.

here in evidence, if you let me see it I will perhaps remember it.

182. Will you kindly look at the memorandum on the back of that by Lord Justice Flugibon!—I presume that is what took place but I have no recollection of it.

183. There were affidavits filed on your side in the Chancery Court!—I am not aware. If you show me the documents.

184. They speak for themselves. You were also solicitor for Joseph McKenna in the ejectment proceedings!—I was.

185. Now, you say you remember being in court at those proceedings!—I do. I remember being in court on some day but whether it was the day upon which the Chancery matter came on or the action at law, I cannot really say.

186. You remember the agreement that was come to!—I don't recollect the terms further than they appear to be stated in that agreement read here to-day.

187. You read that at the time!—Well, I presume I did. I have a large practice and I could hardly recollect anything of them.

188. Will you kindly take that draft lease into your hand!—I see that I approved of that on behalf of John McKenna.

189. You have no doubt of that at all events!—I have not the least.

190. Will you just look through it and see the alterations made by yourself in the lease in red ink!—I do, those in red ink are made by me.

191. Will you also take this draft lease, do you see that is also approved of by you!—Yes, on behalf of Joseph McKenna.

192. And alterations made in it in the same way!—Yes.

193. Can you recollect, Mr. Plunkett, your reading over this agreement that was made in court to the McKennas—mind you were acting as their solicitor. Was Mr. Carton your counsel on those proceedings!—He was. I think it is likely that I was present when somebody else read it or I myself read it.

194. What other counsel had you, do you recollect besides Mr. Carton!—I really don't know.

Re-examined.

195. Mr. Sullivan.—Do you remember what counsel did Mr. Lewis!—I do not.

196. You might remember on which side Mr. Bell was!—I don't recollect that either.

197. He was not your counsel at any rate!—I don't know whether he was or not.

Joseph  
McKenna.

JOSEPH MCKENNA, sworn and examined.

198. Dr. Houston.—You are a son of Richard McKenna!—Yes, sir.

199. Younger than the last witness, John!—Yes, sir.

200. Are you old enough to remember when your father first got a portion of these lands in the year 1834!—No, I remember well when he got the second farm.

201. Now, do you remember what state that second holding was in at the time he got it!—I do, sir; well; it was in a very impoverished and miserable state, there was a field of wheat on it that was sown by poor Byrne, seven acres, and off the seven acres there was only thirteen and a half barrels; my father bought it in the agreement from Mr. Lewis.

202. Did you and your father and brothers improve this holding!—Yes, very much.

203. Will you tell us now what sort of improvements were made within your own knowledge!—The first job was to till and clean it when it was very dirty with scutch and other weeds.

204. And it was not only brothers and father and sons that you had, but the neighbouring farmers all round, because they saw and I believe liked the method of husbandry of the brothers, and there was hardly a farmer about that did not help I believe. What did you do besides tilling!—They manured it pretty heavily and drained it.

205. Did they make roads!—They made one road.

206. Would you recognise it on the map if you saw it!—Yes.

207. Will you show us on the map where the road is!—This road here (indicating on map) dividing the second farm from the third, and it is something about fifty-six or fifty-seven perches to that, and it is eighty-eight perches up to the other public road.

208. Just point out the four holdings!—(Indicates on map.) The fourth is the most difficult ground to manage.

209. Mr. VERSOY.—Is there a house on the fourth? There is a house I erected myself, I did not erect the house but I repaired it.

210. Dr. Houston.—And put up the offices!—Oh yes.

211. Will you tell us when it was you repaired the house and erected the offices!—It was in the year 1860, the summer I repaired the house, and the following year I put up the offices, 1861 and 1862. And it was in 1861 I commenced the drainage on my own account.

212. Do you recollect what year your father died!—I do, in 1849 and was buried on Hellisduve.

213. Now, do you remember when the No. 4 farm was taken!—I do, sir.

214. Who was the tenant before it was taken by you!—Mr. Byrne, Joseph Byrne, the landlord had it a couple of sessions in his own hands before it was let to me.

215. Now, will you take that document (produced) into your hand. Did you send or give to Mr. Lewis any copy of that document!—I did, sir.

216. Did you give it to him or send it to him!—I sent it to him by post enclosed in a letter.

217. Did you get it back from the post, ever!—I did not, that is a copy of it.

218. Now, my lord, I propose to enter that proposal. He was wanting 4*acres*, an acre, and he came down afterwards in the following year, April, 1859, to my brother's house, and I was out with a man on the lands, and he sent a boy for me to meet him above at the lane. I met him there and he said "Mr. McKenna, I want to speak to you about this farm, lately held by Byrne, I think you will make an inducement and good tenant, and if you give a fair rent for it, I have no objection to let it." I told him I offered the full and fair rent, £2. He said it was not, that it ought to be cheap at 4*acres*. The result was at all events, that he agreed with me at two guineas the Irish acre, and he said he would write down to the man to give me possession in a day or two, which he did.

219. Was there anything said about your brother guaranteeing the rent at that time!—Oh there was! "Well," said he, turning to my brother then, "I have no objection to accepting your brother as tenant, if you will go tell or security for the rent."

220. Judge O'HAGAN.—To John!—Yes, to John. He said of course he would, willingly.

221. Dr. Houston.—Then you all separated!—We walked with him as far as what we call the new road, and then he went off to the train, and we came back.

222. How soon after that were you put into possession!—In the course of a few days, within a week.

223. Who was it put you into possession!—It was me, he had a caretaker from Monaghan.

224. What is his name!—I don't know.

225. You went into possession, did you proceed to till the lands and improve them!—Yes.

226. What was the next interview you had with the landlord!—The next interview was the following

March—March, 1853, when I went with my brother to pay our rent, he to pay him, and I to pay my share.

237. Judge O'HAGAN.—To whom did you go?—We went to his house.

238. Dr. Houston.—To Mr. Lewis' house?—Yes.

239. Judge O'HAGAN.—Where was the house?—I think, 43, Fitzwilliam-square. We used frequently have to go to his house to settle with him and then go to the bank to lodge.

240. Dr. Houston.—You went to his house this day, you and your brother?—Yes. He asked me had I the rent, I said I had. "How much?" said he. "So much," said I. "Why," said he "that is not right." "Oh yes, Colonel, that is what it comes to." He took the pen and ink in his hand, and said "It is more than that." I insisted of course it was the exact rent.

241. Judge O'HAGAN.—How much was it you offered?—I made it up at 37*½*.

242. Dr. Houston.—At what rate per acre?—£2 2s. And he made up the half-year at £41 10s.

243. Judge O'HAGAN.—Was the difference about the acreage?—Oh no, but in the rent, he insisted it was £2 4s. an acre, and I of course insisted on what I took it at, however he undertook to make it up, and made it £41 7s. for the half year, and 4*½*s. is not that?

244. Did you yield?—I had to do it.

245. Mr. VERNON.—He made it up to what?—£41 7s.

246. Judge O'HAGAN.—Is that at the rate of £2 4s. an acre?—It is something more, it would be close on £1 less at £2 4s.

247. Dr. Houston.—At any rate you yielded?—Oh yes, because we were laying out a great deal of money during the year; we had it a year at the time, cleaning it, and tilling it, and mowing it. We made fallow and it was fit for nothing else a good deal of it, and as a proof of that, one of the years he had it in his own possession, he sent down Mr. Bamster, a rent warden, to see what crop it was fit for.

248. Don't just mind that at present, did you pay cash to Colonel Lewis?—We went, and lodged it in the bank.

249. Did you and your brother go together to Latouche's Bank.

240. Judge O'HAGAN.—In Castle-street, Dublin?—Yes.

241. Dr. Houston.—And was that the usual course of business?—That was the usual course for many years, except an odd time when we would not have the money for the May rent, he would take our bills, and then of course we had no business near the bank.

242. Did you lodge the money in a lump sum or did John lodge one portion and you another?—We lodged it in different portions. My brother John lodged for Nos. 2 and 3 in a sum by itself, and No. 1 in a different sum, £31 4*½*s.

243. And did you lodge No. 4 in a separate sum?—In a separate sum, £31 7*½*s., every time.

244. What voucher or acknowledgment did you get for that?—We got a bank document stating "Received on account of A. J. Lewis, so much for rent."

245. Judge O'HAGAN.—Did you get one bank docket for the whole thing?—Every payment we got three bank dockets.

246. Dr. Houston.—What did you do with these dockets?—We gathered them all the last time the rent was going to be increased, and brought them into Mr. Plunkett all we could get of them.

247. Yet say you gathered up the bank dockets and gave them to Mr. Plunkett, when the last rise was being sought?—Yes.

248. Judge O'HAGAN.—When you were lodging them, did you lodge them on separate slips or dockets?—Yes.

249. That is to say there were three dockets given in to the bank?—Yes.

250. Dr. Houston.—You say you gave those dockets to Mr. Plunkett?—Yes.

251. Have you ever got them back from Mr. Plunkett since?—No, except these papers Mr. Scallen has.

March 5, 1858  
Joseph  
McKenna.

252. In the year 1857, do you recollect being served with notice to quit—a notice to quit was served upon your brother for the whole of the holding?—Yes.

253. Then, was your rent raised?—That was the second time it was increased from £41.

254. How much was it increased to?—£105 odd, it was increased from £41 7s. the half year to £52 12s. the half year, seven years after I took it. We were trying this long time, many months, to see and get those bank dockets from Mr. Plunkett.

255. Judge O'HAGAN.—Did you think of going to the Menier Bank, and asking Mr. LaTouche?—I did not know whether I had any right to go there.

256. Dr. Houston.—Did you ever make any application to Mr. Lewis for receipts?—I think we did; I think I did; I am not certain. I cannot say because I never had any chance of asking him until the last year or two of his life, when he was very feeble, and we did not like to give any annoyance then.

257. Do you remember in 1850 your writing that letter of the 12th May to Mr. Lewis?—Yes, very well.

258. And then you got the reply that has been read already of the 14th May?—Yes.

259. You remember Mr. Mason's letter, coming, raising the rent from £384 to £521 5*½*s.?—Yes.

260. I suppose you and your brother put your heads together, and that letter was written by your brother, saying you could not pay so much rent?—Yes.

261. You were not served with any notice to quit, I believe, before the action was brought?—No.

262. And then you took defense to the action?—I was served with an ejectment.

263. Do you remember when the action came on for trial upon the fast day, do you remember when it was postponed, what occurred?—I remember the day when it came to trial what occurred, the jury were in the box ready to be sworn, and the judge on the bench, and the counsel and solicitors between them had a good deal of talk, whispering among themselves, that as my brother could not hear, but they told us at all events that Mr. Lewis was willing to divide £15, and to undertake to get money to draw it. Well, I said, of course, that even with our improvements upon it it was not at all worth say such rent, my brother and the same, and the result was, sooner than give out that we agreed, sooner than walk out a beggarman on the road we agreed to it, for all I ever had, or possessed, or got with my wife which was considerable was laid out on my portion of the land. And I may as well state on my oath I would sooner give up my life than give up the land with all my improvements on it.

264. As a matter of fact had you got money with your wife?—I had.

265. Did you spend that money on the land?—I did, of course, that was the way I laid it out.

#### Cross-examined.

266. Dr. Boyd.—You seem a very innocent man, Joe?—Well, I don't accuse myself of that.

267. You have not that reputation I believe in the country, do you always keep copies of the letters you write?—Generally.

268. A thoroughly business man?—I generally do that much.

269. And, therefore, you produce the letters that you say you wrote to Mr. Lewis, perhaps you have got copies of the letters you wrote to Mr. Plunkett about settling the lease?—I have not, I wrote no letters to my knowledge or recollection to Mr. Plunkett, we went there.

270. According to that letter, whatever Mr. Fitzgerald would fix as a fair rent, he would give it to you?—When did he say that.

March 6, 1882  
Joseph  
McKenna.

270. Is not that the letter you produced?—I don't understand the question.

271. Didn't Mr. Lewis say that when Mr. Fitzgerald fixed the fair rent he would be prepared to deal with the tenants on the property?—Yes.

272. Then you heard from Mr. Mason that Mr. Fitzgerald had fixed it at £3 15s.—I did, he would not tell me what his estimate was. I don't know did we ever ask him.

273. You got a letter from Mr. Mason at all events saying £3 15s. would be the rent?—We got a letter demanding that.

274. Now, your case is that you were always in possession of this No. 4 lot?—My case is that I got possession, and I lived for seven years at home with my brother and mother.

275. Is not the short way of putting it, were you always in possession of No. 4 from the time you got possession of it?—Yes.

276. And you were not served with a notice to quit?—No.

277. And you had a good defence to the action?—I believe I had.

278. And you would have beaten Mr. Lewis in the action?—I don't know whether I would or not, I think, if I don't mistake, you were one of the counsel.

279. When was it agreed that the difference was to be split, £3 15s.?—In the court the day the trial was to come off, and it was not in the Common Pleas, I think it was in the Exchequer.

280. And you agreed to that?—We were obliged to agree to that or walk out on the road, beggarman.

281. If you had a good defence you need not walk on the road, was the lease read to you?—No.

282. It was not?—No, but there was an agreement read, and I understood very little about it at the time.

283. You are such an innocent man?—Well, I know very little of law.

284. Did you know this, "Lewis shall let, and the said M'Kenna shall take all that part of the lands of Senton East for a term of twenty-one years," did you understand that?—I do.

285. "From 29th September, 1873, at the rent of £3 15s. 6d. per Irish acre." Do you understand that?—I do.

286. "And as in proportion for roads and perches, to be payable in half-yearly payments." You understand that?—I do.

287. "And Mr. Lewis shall let to Joseph M'Kenna all that part known as No. 4 for a like term, and like rent." You understood that?—I do.

288. "John M'Kenna and Joseph M'Kenna shall not, nor shall either of them make any claim upon the said Mr. Lewis in respect of any improvements heretofore made." Did you understand that?—I did, very well.

289. "On any of the said lands or premises, or in respect of any other existing master or tenant connected with the said lands." You understood that?—Yes.

290. "The parties hereto shall respectively bear and pay their respective costs and expenses incurred?"—It happened not to be read to me that way, I did not get that time.

291. Who read it to you?—I think it was Mr. Fry, I am not certain though, it was read in the court before we left the court.

292. And your solicitor, Mr. Plunkett, did not read it?—Of course he looked at it.

293. He did not read it?—He read parts of it and made remarks on it.

294. And you agreed to it?—What else could I do.

295. Except bear your costs, and Mr. Lewis to bear his?—We thought it best to bear our own, to do that than give up all I ever had or my brother.

296. Did you call upon Mr. Plunkett the night before that agreement was settled and press him to go and write it?—No.

297. Do you swear you did not?—I do positively swear I have no recollection.

298. Did you call upon him about the agreement?—We called upon him very often.

299. Did you call upon him about settling the action?—Not to my knowledge.

300. Will you swear you did not?—I do positively swear I did not, not to my knowledge or recollection, because expected and were prepared to go on.

301. Were you in at the Chancery case?—No.

302. Were you at the Rolls when it was going on—your brother's case?—No, nor my brother either.

303. He said he was. Were you ever at Fleetwilling-square to Mr. Lewis?—I was.

304. Often times?—I was.

305. To whom did you pay your rent when you went there?—If I paid it at all there I paid it to himself.

306. Was anybody else present?—My brother was.

307. Anybody else?—I cannot say, I paid the rent to him.

308. Did you know a Miss Richardson that used to write for him?—I did, I saw her there, but I would not know her if I met her in the street.

309. Did you see her often there?—Not often.

310. Did she ever write any documents for you?—Not to my knowledge.

311. Do you mean to swear she did not write receipts for you in the presence of Colonel Lewis?—She did not, but another young lady, his niece, did on one occasion.

312. Did he ever write a receipt for you in your own name?—No.

313. Did you ever ask for one in your own name?—I cannot say I did.

314. Will you swear you did not?—I won't swear either for or against, I don't know that I ever did.

315. Did Colonel Lewis always give the one receipt when he gave it?—He gave the one receipt some two or three times.

316. And that was always for John?—For John.

317. And that was for the whole of the farms?—For John and for Joseph the promissory notes or bills were.

318. I am not talking about that at all; when he gave a receipt for the rent you paid, did he give it in the name of John or Joseph?—I think he gave it in the name of John a couple of times.

319. Did he ever give one in the name of Joseph?—To my knowledge I cannot say he did.

320. Mr. VESTOR.—You speak of promissory notes, who signed these promissory notes?—My brother and I both, each of us jointly and severally.

321. From the time you went to live on No. 4 was Colonel Lewis ever upon the land?—He never was, sir.

322. Nor his agent?—He never was able to come down.

323. Was the agent ever on the lands?—I don't recollect that he was ever. Oh yes, he was up at my house several times.

324. You are clear about that?—Quite clear; and he was on one or two occasions at my house sitting speaking to my wife when I was not there; and he was there in my house on other occasions when I was there, so that I recollect all about it now.

#### Re-examined.

325. DR. HASTON.—Did you get married and go and live in the house on the grounds after you got the place?—Yes, in 1860.

326. Were you ever shown Mr. Fitzgerald's valuation?—I never was, but I was told it lately.

DR. HASTON asked for Mr. Fitzgerald's valuation.  
DR. BOYD.—I refuse it.

Witness.—If I have any necessity for showing what I hold up to that kind I am prepared to show a good deal of it.

327. DR. HASTON.—Just give us any details you have. Is that a memorandum you made for this case?—Yes. I made over 600 perches of drains at my own expense before we got money from the Board of Works to drain it; and I sank a great deal of ditches and dykes—paid highly for them—very heavy work some of them—over 100 perches to give an outlet to these

drains and put out backs of ditches, some of them six feet wide, and narrowed other ditches. There was an old canal from Swords to Malahide and I levelled part of that, and part that I reckoned was made available for crops, it came up to something about a road; and I made a road 78 perches long from the strand up through my land in order to enable me to get the manure up, it was impossible to get it up otherwise, that was at the very least £1 a perch, if it was in the same state now I don't think any engineer going could level it as good as it is at present for £1 a perch, because I am improving it every year and a great many other things.

328. You have told us about the buildings already?—No, sir, I did not.

329. Dr. Boyd.—When did you spend all this that you spent upon improvements?—Well, since 1861.

330. How much did you spend since 1874 on it?—I spent a great deal of money since 1874.

331. Had you made anything more than the 600 perches of drains before 1874—I made close on 700 before 1874, and I made something about 2,000 perches since 1874 by the money from the Board of Works, and the inspectors came from the Board of Works.

332. Do you recollect after this settlement, and after the lease, writing to Mr. Lewis and thanking him for giving you the lease?—I don't recollect any such thing, but I wrote to him thanking him for getting money from the Board of Works to drain it.

333. And that was got under the lease. On your oath did you not make your solicitor provide that the loss from the Board of Works should be greater than Mr. Lewis wanted to get?—It was increased.

334. At your request?—At my request.

March 6, 1882.  
Joseph  
McKenna.

### JOHN LOWNES sworn and examined.

John Lownes.

335. Mr. Sullivan.—Are you a farmer, Lownes?—I am.

336. Where do you live?—On the mooring with Mr. Joseph McKenna.

337. How long do you know his farm?—I know it since he got it. I knew it these forty years—before he got it.

338. Do you remember the state it was in when he got it?—I do, well.

339. Is it much better now than it was then?—It is.

340. Have you seen him improving it year after year?—I did.

341. What do you think would have been a fair rent for it in 1873?—I don't know. At that day, of course, it was up at the highest mark in 1873. It never was worth more than fifty shillings an acre.

342. Judge O'HAGAN.—Do you mean Irish acre?—Irish acre. It is worth only forty-five shillings this minute. It never was worth more than £50, because it is an inland farm, and it is very difficult to get to it.

### Cross-examined.

343. Mr. French.—Who do you hold under?—I hold under Mr. Foster.

344. Do you know that Mr. Lewis has land adjoining this that he is getting £4 4s. an acre for?—I don't know. Where is that land?

345. A person of the name of Hurley?—I do know him, but Mr. Hurley's is quite different.

346. Is it not next adjoining?—It is not; there is land between them at £2 an acre.

347. Do you mean to say that Mr. Lewis has no land adjoining there at £4 4s. an acre?—I don't know.

348. Do you know what Hurley pays?—I do not know what any man pays.

349. You hold land yourself as a tenant-farmer?—I do, and has land to let myself at thirty shillings an acre—better land than him.

James Smith.

### JAMES SMITH sworn and examined.

350. Dr. Houston.—Are you a farmer?—Yes, sir.

351. Do you live in the neighbourhood of these lands?—I do.

352. Do you know them?—I do.

353. The whole of them?—Nos. 1, 2, 3, and 4?—I know the whole of the farms.

354. Will you tell us what would have been a fair rent for them in 1873?—Well, just as the last witness said, that was about the year that things were selling at the very highest, and at that time fifty shillings would be a very fair rent. I would not say it was worth so much at the present time.

355. How much would be the fair rent at the present time?—£2 10s.

### Cross-examined.

356. Dr. Boyd.—Have you ever talked it over with Mr. Lownes?—Never, until a few minutes ago.

357. How far do you live from him?—I live alongside John and Joseph McKenna. I am a tenant of Mr. Lewis'.

358. How far from Mr. Lownes?—He lives in the town of Swords.

359. Is he a shopkeeper?—No.

360. And you never talked with him?—No, nor with anyone until I was subpoenaed to-day.

Dr. Houston.—We call upon you to produce the rent-books relating to this holding. Do you produce them?

Dr. Boyd.—No.

Dr. Houston.—We enter the appearance and defence.

Dr. Boyd then addressed the court.

March 7, 1882.

### HENRY OWEN LEWIS sworn and examined.

Henry Owen Lewis.

361. Mr. French.—You are the landlord in this case?—I am.

362. When did you succeed to the property?—September, 1862.

363. On the death of your father, I believe?—Yes.

364. Did you know anything during your father's lifetime with reference to these holdings?—Yes, my father always recognised John McKenna as the sole tenant.

Judge O'HAGAN.—You cannot put it in that way; state any fact.

365. Mr. French.—Were you present on any occasion when the tenants came to your father, or either of them?—Oh, yes; I have seen John McKenna coming to pay his rent.

366. Have you seen receipts given to him—I am talking now of your father's time?—I have got entries in his book.

MARSH 7, 1862.  
Henry Owen  
Lewis.

367. Have you seen, Mr. Lewis, receipts given to John M'Kenna?—No, I cannot say I have.  
368. Have you your rentals and books with reference to this holding, in court?—Yes.

369. Are there entries in those books in your father's handwriting?—Yes.

370. Your father is now dead?—Yes.

Mr. Trench.—Now, my lord, I propose to read these entries.

Judge O'HAGAN.—If they are entries of receipts of money, you are entitled to read them, being entries contrary to your interest.

371. Mr. Trench.—Is this large book (produced) in your father's handwriting?—This part (indistinct) is.

372. Do both of those books contain entries of the receipt of rent with reference to these holdings?—Yes. I have not looked at this book for some years.

Dr. Houston.—Does your lordship think that entries made by Mr. Lewis, a deceased gentleman, of the receipt of money, made of course behind the back both of John and Joseph, that they can be evidence of the character and circumstances under which those payments were made.

Judge O'HAGAN.—They are evidence of everything that is in the entry and nothing else.

Mr. Trench.—There are a number of those entries. Here is 9th January, 1865—"Received from John M'Kenna, half-year's rent of his holding, due September 29th, 1864."

Dr. Houston.—What book is this you are reading?

Mr. Trench.—A book that the witness has sworn is in the handwriting of his father.

373. Dr. Houston.—Just take that entry you propose to read. Look down that page—will you swear that all the entries in that page, both above and below that, are in the same handwriting?—Certainly not. This part at the bottom is my brother's handwriting; he was the agent—and this here—

374. Is your brother living?—No.

375. How many different handwritings then are there in that page?—There are two.

376. Only two?—Only two.

377. Will you swear that—now look at it again?—I will—only two.

378. Look at the entry that is crossed?—Yes.

379. Whose handwriting is that in, on your oath?—It is my brother's.

380. Are you sure of that?—Perfectly certain.

381. What is it you say is in your brother's handwriting?—It is one below, "Received from Mathew Ducks," and so on, and the one at the bottom, "Received from Mr. James Reilly."

382. I thought you said those books were kept by your father?—So they were.

383. Do you mean by that that they were kept by your father and other people. Then it was not kept by your father exclusively?—It was kept by my father and brother.

384. Nobody else?—I cannot tell without reading every page.

385. How long is it since you looked over that book before?—This morning.

386. When before this morning?—Two or three days ago.

387. I suppose, previous to that, you had not looked at it for years, if ever?—Yes, I did, two or three years ago.

388. Did you ever see your father write in that book?—I cannot say I did.

389. Turn to that marked entry again, will you undertake to swear that is in your father's handwriting?—Yes, I have sworn it already.

390. Can you point out any other entry. Now, show me that book for a moment. When did your father die?—22nd September, 1859.

391. And where did he keep his accounts after this book, are you aware. Do you see there is a great part of that book not filled up?—He was in very bad health of late years and made no entries at all.

392. How long, now, was he in very bad health,

for how many years?—He had been in failing health eight or nine years before, but he was in specially bad health the last three years of his life. After about the middle of the year 1860, he hardly wrote a line, beyond signing his name to a receipt.

393. The last entry here appears to be—wherever made it—upon the 23rd January, 1865, did you observe that?—I cannot tell you the exact date.

Judge O'HAGAN.—Mr. Trench, what is the particular entry you wish to have taken down as read, one is 26th January, 1865.

Mr. Trench.—That is for the full rent payable at that time, due 29th September, 1864, £1 67.

394. Judge O'HAGAN.—That you say is your father's handwriting?—Yes, my lord.

395. Mr. Trench.—Now, here is January 11th, 1864, "Received from Mr. John M'Kenna, half a year's rent out of his holding in Seaton." Is that in your father's handwriting?—No, it is my brother's.

396. Just tell me if there is any other entry in your father's handwriting?—Yes, "January 19th, John M'Kenna, half a year, to September, 1863."

397. Judge O'HAGAN.—May I ask you, Mr. Lewis, is that book paged?—No, my lord.

398. Mr. Trench.—Turn that down, and go through it and see if there is any other in your father's handwriting?—There is one here without date, my lad, Jane, memorandum, "M'Kenna passed his bill."

Dr. Houston.—I object to that.

399. Mr. Trench.—There is another one. "December 23rd, 1860. Received from John M'Kenna, half a year's rent of all his holdings to 29th September last, payment is N. P. W. L."—that is my brother's initials— who, however, only gave a receipt on account £1 6s 1d. Id.

400. Mr. Trench.—Is there any other?—"February, 1860. Received from John M'Kenna the half-year's rent of M'Kenna's different holdings in Seaton by payment of his bill passed, deducting all charges to 29th September, 1859."

401. Is the amount given there?—No.

402. After your father's death do you remember the two men, John and Joseph, coming to you yourself?—Yes.

403. And making a request of you; will you tell me what was said, Mr. Lewis?—As far as I remember they said very little about it, they came to congratulate me on succeeding to the property, and expressed their great regret at my father's loss and respect for his character, and said something about dividing the holdings, and I said I would see about it.

404. From that to this have you given receipts yourself for these holdings?—I sign the receipts myself.

405. To whom were those receipts given, in whose name?—Given in the name of John M'Kenna.

406. Now, Mr. Lewis, you remember the ejectment and Chancery proceedings in 1873?—Yes.

407. I believe you were over here in Dublin at the time?—Yes.

408. Do you remember being in Mr. Fry's office when Mr. Plunkett, M'Kenna's solicitor, came there?—Yes.

409. Now, will you tell the court what passed between you and Mr. Fry and Mr. Plunkett?—Mr. Plunkett proposed that we should split the difference, my lord, between us.

410. What were you asking?—£3 15s. and they offered £5. Mr. Plunkett came and proposed they were willing to give £3 15s. 6d. and we had some talk about it, as to how the costs were to be apportioned, and when the rents were to commence, and Mr. Fry, by my instructions, wrote a letter the same evening to Mr. Plunkett agreeing to his terms.

411. Was it before Mr. Plunkett left or after it you had agreed to take the £3 15s. 6d.?—Before he left.

412. Were you in court?—I don't know how it was when the agreement was signed?—I cannot say.

413. Now, as a matter of fact, you have other land adjoining this of M'Kenna's?—Yes.

414. What have you those lands set at, or what were they then, rather?

Dr. Houston objected.

415. Mr. French.—After the agreement had been signed did you receive a letter from John and Joseph M'Kenna?—Yes.

416. Have you got that letter now?—No.

417. You did not keep it, I believe?—No.

418. What was the letter about?

Judge O'HAGAN.—You have hardly gone far enough for that.

419. Mr. French.—What became of the letter, Mr. Lewis?—I have no doubt I destroyed it.

420. Have you looked for letters?—Yes.

421. Have you looked for that letter amongst others?—Well, I have turned over within the last few days every paper I had, and it was not there.

422. And you have no doubt you destroyed it?—I am certain I did.

423. What were the contents of that letter?—It was thanking me for the arrangement I had made with them, expressing their great satisfaction of it.

424. And it was from both of them?—Yes.

#### Cross-examined.

425. Dr. Houston.—Now, Mr. Lewis, are you sure that that letter was not a letter with reference to the drainage money?—I am perfectly certain it was thanking me.

427. It is a plain question, Mr. Lewis, and you ought to give me a plain answer to it?—It is impossible for me to answer you yes or no, there may have been allusions to the drainage in it.

428. Then you won't swear it had not reference to the drainage money?—I won't swear that.

429. Have you any doubt now that that letter had reference to the drainage money?—I cannot say whether the drainage money was not referred to in it.

430. Did they not in that letter express satisfaction at the lands being drained, or something of that kind?—No.

March 7, 1874.  
Henry Orme  
Lewis.

431. Now, just listen to this. Is not this the letter?—

"H. O. Lewis, esq., &c. Honoured sir, we trust sincerely you will grant us the privilege of addressing you through this letter, as we having heard you were in Ireland, my brother and I went to your hotel, and to our great disappointment found you had left for home two days previously. Our desire being then in it is now most respectfully to offer you, honoured sir, our most sincere and humble wishes for the health and happiness of yourself and good and kind lady, and youthful family."

Is not that part of the letter, December 28, 1874, a Christmas greeting—is not that the letter?—No, I am sure it is not.

432. Will you swear now you get two letters?—I cannot swear; to the best of my belief that is not the letter I referred to.

433. Listen—

"Praying God to bless you all, and grant you many, many happy and prosperous returns of this joyful and festive season."

Now, is that bringing it back to your recollection?—I am almost certain that is not the letter.

434. —

"And also most gratefully thank you for obtaining the grant of £700 for us to drain the lands, which we are just commencing."

Now, is not that the letter?—To the best of my recollection it is not.

435. But you won't swear it is not the letter; is not that so?—I don't like to swear positively, but I believe it is not.

436. Then you won't swear it is not the letter; am I right in that?—I will not swear positively; I don't believe it is. I am morally certain it is not, but I don't like to say so. To the best of my recollection the letter I got was in the month of June or July; I am almost certain it was in the summer.

437. Mr. French.—June or July, 1874?—Yes, just after the leases were executed.

Mrs. ELIZA KIRK, sworn and examined.

Mrs. Eliza Kirk.

438. Mr. French.—Mrs. Kirk, I believe you were a housekeeper to the late Colonel Lewis?—Yes.

439. In what year, do you remember?—From the 1st October, 1855 to the day of his death, which was 22nd September, 1869.

440. Now, during that period do you remember John and Joseph M'Kenna calling upon the Colonel?—Frequently.

441. Do you remember any request made by them, or either of them to the Colonel?—I remember Joseph M'Kenna requesting the Colonel.—

442. Mr. Houston.—When was this?—To the best of my recollection it was—I cannot say the date.

443. Mr. French.—As near as you can?—As near as I can—in fact it was always—I cannot say to the date or the year. I am here to speak the truth for both sides.

Dr. Houston.—You are only examined on behalf of one at present.

444. Mr. French.—Can you recollect the time when first you remember the M'Kennas coming?—To the best of my opinion it was in the year 1854, that I can remember clearly; I have perfect recollection of that, and I am certain they were there before that.

445. Judge O'HAGAN.—What time did you say you first met them, Mrs. Kirk?—Just October, 1853.

446. And you said 1854, you remembered them coming?—I mean 1854, that was it.

447. Now, tell us what it was that passed between the Colonel and M'Kenna, or either of them, which of them?—Joseph M'Kenna wanted to pay Colonel Lewis rent; Colonel Lewis would not receive rent from him, as he said he was not his tenant; he would receive rent from no one but John.

448. Do you remember Joseph giving any reason

why he wanted to pay the rent, or be the tenant?—I remember him saying to the Colonel that his wife had encumbered herself and her fortune to him, and that he wanted to do the best he could for his wife with her money, and the Colonel would not listen to him.

449. Now, do you remember that request being made on more than one occasion?—I do.

450. Did you yourself notice for the Colonel draw up receipts?—I frequently filled up receipts, and the Colonel signed them.

451. And to whom were those receipts?—Always to John M'Kenna.

452. You left in 1869 you say, after the Colonel's death?—I remained on until the following January in the house.

#### Cross-examined.

453. Mr. Studdens.—How often did you see John and Joseph M'Kenna at Colonel Lewis' house?—I cannot say how often.

454. Did you see them a dozen times there?—I am sure I did.

455. Both of them?—I don't ever recollect seeing one without the other.

456. You say you filled up receipts?—Frequently.

457. Did you see any money paid?—I am not sure that I did.

458. You have no recollection, although you filled up the receipts, of seeing any money paid?—I have seen money but I never counted it.

459. Will you undertake to say who paid the money?—John M'Kenna.

460. Did you see Joseph M'Kenna pay money?—No.

461. Or produce money?—No.

May 2, 1882

Mrs. Mrs.  
Elias  
Kerr.

462. But they were both together on each occasion?—No.  
 463. Have you not told me a moment ago they were?—I have seen them in the house, but not in the Colonel's room. Joseph M'Kenna was allowed to stay in the hall while John M'Kenna was inside transacting business with the Colonel.

464. But they invariably went there together?—Invariably.

465. You were the housekeeper of the place?—Part of the time.

466. Where did John M'Kenna see Colonel Lewis?—In his own back parlor.

467. And it is your evidence that on each occasion that those men went to settle accounts with Colonel Lewis, that you, the housekeeper, always accompanied them?—Oh, no, only latterly, when Colonel Lewis was in ill-health.

468. Will you give us the year that you first accompanied him into the room?—I cannot say.

469. It was, at any rate, after the Colonel fell into bad health?—Yes.

470. And until he fell into bad health and required assistance you had nothing to say to anything that passed between them?—No, not in a business way.

471. Well, we know the date of that. May I ask you what your occupation at present is?—I am living in my own house.

472. Who first spoke to you about the case?—I had a letter from Mr. Fry telling me I would be required.

473. And did you then go to him?—No.

474. Did you ever tell anyone the evidence you were going to give here?—I may have said in court to Mr. Lewis' agent that I was going to give evidence as to Joseph M'Kenna not being a tenant during the Colonel's lifetime.

475. Do you mean to tell the court that until you made some observation to Mr. Mason, the agent here, on yesterday, you never told anyone what you would state when examined?—Never.

476. And you were produced here in utter ignorance of what you were going to tell?—No, I was produced here to prove Joseph M'Kenna never paid rent to the Colonel.

477. To whom did you say you would prove that?—I think to Mr. Lewis himself.

478. When?—Yesterday in the waiting-room.

479. Were you brought here under subpoena?—No, I don't understand what a subpoena is.

480. Was a summons served on you to come here?—It was a note.

481. From whom?—From Mr. Fry.

482. When did you get it?—Last week.

483. And now your evidence is that up to the time you got that note, and up to yesterday, in court, you never told a human being what you were here to prove?—No, not to my recollection.

484. Mr. French.—You remember the ejectment proceedings in 1873?—I do.

485. I believe you were to have been examined as a witness on those proceedings?—I was.

Thomas  
Mason.

## THOMAS MASON, sworn and examined.

486. Mr. French.—I believe you are Mr. Lewis' agent?—I am.

487. Do you remember the ejectment proceedings in 1873?—I do.

488. Had you prior to that received rent for those holdings in dispute?—I had.

489. From whom did you receive it?—John M'Kenna.

490. To whom did you give receipts?—John M'Kenna.

491. Did Joseph M'Kenna at any time make any request to you about giving him a receipt?—He did.

492. Did you ever do so?—I did not.

493. And the receipt which was given to John was taken?—Yes, always from 1868.

## Cross-examined.

494. Dr. Houston.—But Joseph was living at No. 4 holding, was he not?—Well, I don't understand about the numbering.

495. He was living on a part of the lands anyhow?—I believe he was.

496. Have you any doubt about it?—No.

497. And his wife and family?—Yes.

498. And farming the lands?—I don't think he had any family.

499. Well, his wife anyhow?—Yes.

500. You are the Mr. Mason that wrote that letter that was read yesterday, I believe?—Yes.

501. Under Mr. Lewis' instructions, I suppose?—Well, of course, it was not altogether on his instructions.

William Fry.

## WILLIAM FRY, sworn and examined.

502. Mr. French.—You were solicitor, I believe, to the late Colonel Lewis?—Yes.

503. And are solicitor to the present Mr. Lewis?—Yes.

504. Now, do you remember, in the year 1872, I think it was, having an interview with the Messrs. Barry and Smith, solicitors?—Yes, in October, 1872, Mr. Barry, of the firm of Barry and Smith, called with the Messrs. M'Kenna, and they gave me a valuation made by Brassington and Gale on their behalf, and asked me to forward it to Mr. Lewis with the object of having the rent reduced.

505. Is that [produced] the valuation?—That is the valuation, it is a copy valuation supplied to me by Mr. Barry.

Mr. French.—Part of the holding is valued at the acreable value of £3, and the residue of the holding at the acreable value of £3 6s.

Judge O'HAGAN.—How many acres are valued at £3 6s.

Mr. French.—There is 30A. 2R. 17T., I think, and 9D. 3R. 37P., at £3.

Mr. VERNON.—Is it a valuation of the four lots.

Mr. French.—It is, at all events, a valuation of the entire. Now, we will put in the other valuation,

which is substantially the same, although not made together. This is the valuation of Mr. Fitzgerald, and although there was no communication between them, it is strange to see they are substantially the same. This was in 1870, the part in Joseph M'Kenna's occupation is valued at £120, and John M'Kenna's is valued at 2296 15s. Brassington and Gale's valuation is £125 16s., and £390 16s. 9d.

506. Now, Mr. Fry, you remember the proceeding in the Chancery Court?—Yes.

507. And you produce an attested copy of the bill?—Yes (produces).

508. Now, do you remember the negotiations between you and Mr. Plunkett with reference to the settlement of these matters?—Yes.

509. What were the negotiations with reference to, what were the main points between you?—The interviews with Mr. Plunkett were very frequent.

510. Are you able to say from whom the suggestion came to settle the action?—Mr. Plunkett on behalf of the M'Kennas was very anxious to settle the action and to get leases from Mr. Lewis of their holdings.

511. Would you kindly repeat that?—I answered the question as well as I could that I was asked.

512. Judge O'HAGAN.—Just tell us what occurred?

From the time the notice to quit was served and the time up for demanding possession and all that Mr. Flankett was frequently, very frequently endeavouring to arrange the matter between Mr. Lewis and his clients, and the object of the arrangement was to get a lease at as low a rent as he could and on the best terms he could, just as ordinary solicitors would do between one another, there was no question at all. Mr. Lewis never hesitated to give the lease, and Mr. Flankett was anxious to get it, but that was not the question, the question was the rent.

513. Always is, Mr. Fry—I—Yes, my lord, and no question between Mr. Flankett and myself as to the clause other.

514. Mr. French.—Ultimately, Mr. Fry, the amount of the rent was agreed to—it was, sir.

515. And that consent we have seen was drawn up—it was, sir.

516. Were you in court when that consent or agreement was signed—I was, sir.

517. Did you hear the agreement read to the McKennas?—Mr. Flankett read it to them.

518. You then prepared a draft lease—I—Yes, sir.

519. And they were altered as we have seen in red ink—I—Yes.

520. You I believe made some alterations then again—I—No, I made re-instatements.

521. I see "stop" here and there—I—Yes.

522. Did you go back to Mr. Flankett—I—Yes.

523. Judge O'HAGAN.—Was an affidavit verifying the bill in evidence—I—Yes, my lord, there were two affidavits I have them in court, witnessed copies.

524. Mr. French.—Were the arrangements of those leases ultimately approved of by Mr. Flankett?—Yes, they were sent to his house for comparison. His son it was that called with the Mr. McKenna, and they executed the leases in our office.

525. Would you get the proposal of the 27th April, 1880?—Yes, sir (produced).

526. Was this proposal furnished to you?—No, I think it was furnished to Mr. Lewis and I think a copy sent to me.

527. This, my lord, is the proposal of the 27th April, 1880, from John McKenna and Patrick McKenna. Was a draft lease prepared in accordance with that proposal?—Yes.

528. And approved of by Mr. Scallan?—Yes.

529. Was there an agreement prepared?—Yes.

530. And approved of. Did you receive a letter from Mr. Scallan of the 7th April, 1880?

Judge O'HAGAN.—Was Mr. Scallan at that time acting for John or Joseph McKenna?

Mr. French.—The way the matter stands is he was acting for the two sons, and the evidence of the father is that he approved of the sons getting the lease and authorized them to get it.

Dr. Houston.—I shall object to this.

Judge O'HAGAN.—That would not make Mr. Scallan an agent so as to bind the father by it.

Cross-examined.

March 3, 1882.

William Fry.

531. Dr. Houston.—Now, this is the draft, just take it now. This is the draft of John McKenna's lease, is it not?—Yes, sir.

532. Just keep it open for a moment. I take it wherever the word "short" occurs and "W. F." that represents your reinstatement of what had been previously struck out?—Yes, sir.

533. And those, I believe are these?—Several of them.

534. Penal covenants chiefly, of course all in the interest of the landlord, I need not say!—Of course to the best of my ability and as I believed according perfectly with the agreement.

535. As you believed in accordance with the agreement?—Yes.

536. Was there any clause in the agreement that there should be a forfeiture on bankruptcy?—No, but there are words sufficient to warrant it.

537. Will you tell us where they are as a matter of conveyancing?—The said leases shall respectively contain the usual covenants between landlord and tenant, and also a covenant against the tenants' assigning or subletting the said lands and premises, or any part thereof without the previous consent of the landlord."

538. Is that the clause that authorizes you to put in a clause of forfeiture on bankruptcy?—It warrants it because you very well know bankruptcy would annul.

539. Now tell me who was not Mr. Britt counsel for Mr. Lewis in the ejectment proceedings?—He was, sir.

540. I suppose you sent this on to Mr. Lewis, Braxton and Gale's valuation?—Yes, sir.

541. Who gave the instructions to Mr. Fitzgerald for this valuation?—It was not I gave it.

542. Came from the agent, I suppose?—Either the agent or Mr. Lewis.

543. Judge O'HAGAN.—The proposal was to give two separate leases, one to John and one to Joseph?—That was the arrangement.

544. Was it not the proposal from the beginning—that was what he wished for and we had no objection to settling the case in that way.

545. Now up to that time Joseph never had been the tenant?—I can only give evidence on that from memory.

546. Was any objection made at all to giving the lease to Joseph on the ground that he had not been the previous tenant?—I don't think that was ever—the proposal was this, my lord, that the matter should be arranged by John getting a lease of the portion of the premises in his hands and the other man Joseph getting a lease of the premises in his hands. When we came to a compromise there was no use in arguing about things that did not refer to the matter in hand, our object was not to fight, whether Joseph was tenant or not.

547. Mr. Lewis was quite aware of the proposal?—Nothing was done without his sanction, in fact he was here at the trial, my lord.

Henry Owen Lewis

#### HENRY OWEN LEWIS, recalled.

548. Mr. French.—Has that drainage charge been paid by the McKennas?—A part of it has.

549. Is there a considerable amount of it in arrear?—Yes, £150.

(BEFORE MR. JUSTICE O'HAGAN AND MR. COMMISSIONER VERNON.)

May 5, 1882

## KILLARNEY, SATURDAY, MAY 6TH, 1882.

PATRICK SULLIVAN, - - - - - Tenant;  
 TRUSTEES OF CRUMPE'S ESTATE, - - - - - Landlords

Mr. J. P. Broderick appeared for the tenant; Mr. Murphy, instructed by Mr. MacGillivray, appeared for the landlord.

Patrick  
Sullivan

PATRICK SULLIVAN, sworn and examined.

1. Mr. Broderick.—What was your former rent of this holding?—£12 a year.

2. When was that, that you were paying the £12?—About twenty-one years ago.

3. In the year 1870, I believe, there was a gentleman sent upon your land on behalf of the landlord, Dr. Crumpe, to make a valuation!—There was.

4. The agent went there—Mr. MacGillivray!—Yes.

5. You were paying, I believe, up to 1857, £12?—Yes, sir.

6. Then was there a rise put on you?—There was, £6.

7. In 1871, I believe!

Mr. Murphy.—In 1857 Dr. Crumpe bought, and the rent was then £18.

8. Mr. Broderick.—What was the rent you were paying before Dr. Crumpe became landlord?—£12.

9. And he put it up to £18?—Yes.

10. When did Dr. Crumpe become your landlord?—I don't know if it 1856 or 1857, it was then he put on the rise.

11. Did you continue paying that rise from 1857 to 1871?—I should do it, sir.

12. When was the next rise put upon you?—Before

he made me take the lease, I should take a lease, and he under the £27, he put £9 on the £18.

13. Who asked you for this rise up to £27?—He sent out Mr. MacGillivray, the agent, valuing the land.

14. How long before you took the lease?—The same year I took the lease, and then when he would take the improvements down, he wished that I would sign to it, and then I signed. I went into Tralee then, and myself and the agent went up to him.

15. To Dr. Crumpe?—Yes, sir, and Dr. Crumpe said he would not allow me anything at all, only to pay me out of the dwelling-house, and that I should agree to the rise, and to take out a lease. He gave orders to the agent then to serve me with a notice to quit.

16. Judge O'HANAN.—Was a notice to quit served on you?—There was not. He gave orders to him to give me a notice to quit.

17. Did you hear Dr. Crumpe give that order, how do you know Dr. Crumpe gave that order?—Because myself and the agent were together with him. About twenty years ago I made 100 perches of drains, and all I was allowed was £23.

Court adjourned for attendance of agent.

May 6, 1882

Patrick  
Sullivan

## MONDAY, MAY 8TH, 1882.

PATRICK SULLIVAN, further examined.

18. Mr. Broderick.—How long were you yearly tenant of these lands before Dr. Crumpe came there?—I think I was four or five years.

19. Now, what were you paying, what was your rent?—£12 was my rent.

20. Now in 1857, when Dr. Crumpe became owner of the property, what rise was put on you?—There was £6 on £12.

21. How long were you paying the £18?—I was until nine or ten years ago.

22. Now at the end of nine or ten years did anybody come upon the land to value the land itself?—No, sir, until they went out, when they put £9 on me.

23. Who went out?—Mr. MacGillivray.

24. Did he look at all your improvements?—He did, and put it down in a book.

25. Were these the improvements, had you 430½ perches of fences made there?—I had.

26. Did you point them out to Mr. MacGillivray?—I did.

27. Had you 269½ perches of drains made?—I had.

28. Did you point them out to that gentleman?—I did. I think there was some made since.

29. How much were made when Mr. MacGillivray saw them?—There was only about half.

30. Was it then you made the farm road?—It was made at the time Mr. MacGillivray went out.

31. What number of perches is there in this farm road, is it 63½ perches?—Yes, sir.

32. And did Mr. MacGillivray, the agent, take down all these improvements in his book?—He did.

33. What did he say to you then about anything?

—He wanted me to sign all he put down, and I said I could not sign it, that I did not know all that was in it, and he told me then to go into town.

34. Did you go into town?—I did.

35. Did he take you before the late Dr. Crumpe, the landlord?—He did.

36. Was Mr. MacGillivray there also?—He was along with me the first time.

37. What passed between Dr. Crumpe and yourself, and Mr. MacGillivray?—He said to me that if I would not lie in to take a lease, and to pay £27—and I said I could not do it, nor I could not pay it, and I would not take it.

38. What did he say then to you if you did not?—He said then to Mr. MacGillivray to serve me with notice to quit.

39. Since you would not take what?—Since I would not take it for £27, and to take a lease.

40. Who told you unless you took a lease and paid £27?—The doctor himself.

41. And Mr. MacGillivray was present?—He was, sir.

42. And he told Mr. MacGillivray if you did not take a lease at that figure to serve you with a notice to quit?—Yes, sir.

43. I suppose you did not like that operation upon you, poor fellow?—I did not, and I went home.

44. You went home without signing it?—I did.

45. But the notice to quit, I suppose, was hanging you and you came back?—I did.

46. When did you get the notice to quit?—He told me to come in to settle with him before he would serve

May 5, 1881.

Patrick  
Sullivan

me, and I came in but took my son with me. Mr. MacGillivray sent to me to come in and settle with the doctor, or he would serve me with a notice to quit.

47. Judge O'HANLON.—Did he send you word?—He sent me a letter that I handed to my son to read.

48. Mr. MORPHY.—Where is the letter?—I did not keep it.

49. Mr. BRODERICK.—In consequence of that letter did you come into town?—I came in then, and he asked me would I take the farm for £27 and to take a lease. I said I could not do it, nor I would not. "Very well" says he "I will eject you altogether out of it."

50. Who was present at that conversation?—There was not anyone. I brought my son that day, and he served out the son; he would not let anyone in but myself.

51. Mr. MacGillivray was not present at that time?—He was not, nor anyone but me.

52. Where was this?—In his own room. He asked my son what did he want. "I came with my father," said the son. "Go away" said he, "go out of the door, I don't want anyone only himself."

53. Was it that day you signed the lease?—It was not.

54. When?—He told me that if I would not take a lease at the £27 he would eject me out of it. "Well now, doctor," says I "I could not do that, and do you know what I will do with you, put any three men valuing the land and whatever rent they say it is worth I will pay; or another thing, whatever compensation they say to give me, I will up my land to you for, and go out of my house," says I.

55. Did you go away that day without signing the lease?—I did. There came then another thought that I had no place to go but the workhouse, and I thought it was better to go in and take it until I could see somewhere else to go to.

56. And as a matter of fact you took it?—I did.

57. Was the notice to quit ever served on you?—It was not.

#### Cross-examined.

58. Mr. MORPHY.—The doctor was a very mild-mannered man was he not?—Indeed he was very mild with me.

59. Was he not a very quiet man always?—Sometimes.

60. How long were you asking me for a lease before this rise was put on you?—I never would ask a lease, only I asked a lease when I had it at £12, when I heard he was going to put a rise on me.

61. Did you ask for a lease at any time from the doctor?—I did not ask for any lease from that out.

62. Did you ever ask for any lease?—Upon my oath I did not only at this time, when I had it for £12.

63. Did you ask the doctor for a lease when you had it at £12?—I did.

64. The rise was put on you before Mr. MacGillivray became agent?—The £12 was.

65. Now, upon your oath, did you ever ask Mr. MacGillivray for a lease?—I did, when I asked it for that.

66. To get you a lease at £12. Was not the rent raised before Mr. MacGillivray became the agent over the property?—It was.

67. Your rent was £18 before Mr. MacGillivray began to receive the rent?—It was.

68. Upon your solemn oath did you ever ask that gentleman there (Mr. MacGillivray) for a lease?—Upon my oath I never asked him only when it was £12.

69. Do you see that gentleman there?—I would not say anything to that gentleman.

70. Upon your solemn oath did you ever ask him to get a lease for you from the doctor?—At £18?

71. I don't say at what rent. Did you tell him, upon your oath, you would give him £20 for the farm, if you got a lease?—I never did.

72. And do you swear now that you never asked him to beg of the doctor to give you a lease at £20 a year?—I swear I did not ask him for any lease since I was at £12, and did not get it.

73. Was there no talk about a lease at all until after Mr. MacGillivray went out to the place?—I beg your pardon, there was; this is the time I asked the lease.

74. Put out of your mind what occurred about 1857, I am talking about what occurred in 1870 or 1871?—I never asked for any lease, but at £12.

75. Was there no talk about a lease between you and Mr. MacGillivray, or between you and Dr. Crumpe before Mr. MacGillivray went out to the lands, and took down the improvements in a book?—There was not, I did not ask any lease only for the £12, because I was raised out of it.

76. When you came into the doctor he said you should take a lease?—He did.

77. Distinctly?—No; at the £27 rise. He told me if I would not take a lease he would eject me out of it.

78. After a time then you became willing to pay the rise of rent?—I should take it or go into the workhouse.

79. Don't you think the doctor would let you continue as yearly tenant if you paid the rise?—Sure, I should pay the rise.

80. But would not the doctor allow you to continue as yearly tenant if you paid the rent?—I don't know whether he would or not.

81. Did you ask him?—I did not.

82. Did you ever say to Mr. MacGillivray or the doctor, "I will pay the £27 a year, but I will not take out the lease"?—I did not. When he forced the lease on me I should take it or go into the workhouse.

83. Did you ever say, "I won't take a lease, but I will pay you the rise of rent"?—I did not. This is the way I said it, "My great God, how am I pay £27?"

84. Was it to the rise of rent or taking out the lease that you objected to, which of them did you object to most?—I don't understand you at all.

85. Was it the rise of rent you were objecting against all the time?—I was; it was against the rent I was, and against the lease.

86. Why did you object to the lease?—I should take it or leave it there, and go into the workhouse. He said he would not care for my rent for twenty years. He would eject me altogether.

87. All the lease did was to prevent Dr. Crumpe from putting any rise on you. What clause in the lease is it you object to?—I don't know what about the lease at all, and I did not look about it, because I was not in the care of it; I don't know one letter in it.

88. What you did object to was the rise of the rent, was it not; you were not in the care of the lease?—I was not, because I was sure that I would not keep it out you, for I was not inclined to keep it.

89. You know you had a clause of surrender in the lease?—There was.

Patrick  
Sullivan, Junr.

#### PATRICK SULLIVAN, Junr., sworn and examined.

90. Mr. BRODERICK.—Do you know whether those improvements that you heard me read out to your father were effected on these lands?—They were, sir.

91. Do you remember Mr. MacGillivray, the agent, coming out upon the land, when the first rise was put on?—I remember at the time that he was coming to put the rise of £20 on.

92. What now did he do when he went upon the lands?—He took my father with him and told him to show him his improvements, his fences and drains, he told me to carry a spade and open them and see if they were carrying water well. So he took down all this then.

93. Mr. MacGillivray, did?—Yes, sir.

May 6, 1882.

Patrick  
Sullivan, junior.

94. The rent was then £18?—Yes, sir.

95. Did you hear him make any observation to your father then about what the rent should be in future?—I did not, but he told him to go to Tralee to see the doctor, that he was going to put a rise of rent on him.

96. Did he say then what the rise would be?—He did not.

97. What further was said besides the rise of rent?—When he went to Tralee.

98. You were not present at the first interview in Tralee, he went to Tralee?—Yes, sir.

99. You were not with him at that first interview?—No, sir.

100. When he came back, in consequence of anything your father told you, did you accompany him to Tralee, the second time?—Yes, sir.

101. When you went to Tralee had you any conversation with Mr. MacGillivray or Mr. Crumpe in your father's presence?—No, sir, but he went to Mr. MacGillivray, and Mr. MacGillivray told him to go to the doctor that he himself could not have any effect with the doctor that he was not willing himself to put on a rise.

102. That Mr. MacGillivray was not?—Yes.

103. Were you present at that conversation?—I was inside in Mr. MacGillivray's office.

104. What more was said between Mr. MacGillivray and your father in the office?—I don't remember anything else.

105. Did your father then go to the doctor, and did you accompany him?—I did, sir.

106. Did you meet the doctor, yourself and your father?—Yes, sir, I went into the room with him. He asked me what did I want with him, I said I only came in with my father.

107. What did he say then to you?—He told me to get out that he did not want me, he only wanted my father.

108. Did you leave the room then?—I did, sir.

109. Did you hear any of the conversation between your father and the doctor?—I did, because I stood outside the door. My father was hard of hearing and I am sure he was too.

110. They were both kind of hearing?—Yes, sir.

111. You overheard the conversation outside the door?—Yes, sir.

112. It was in his own house, in the room upstairs, I suppose?—Yes, sir.

113. What conversation did you overhear between the doctor who spoke aloud to your father and your father to him?—He said that he should pay £9 rise and take out a lease.

114. Upon your oath did you hear that?—I did, sir.

115. Did you hear your father make any reply to that?—I did, he said that he could not pay for it, and I could not hear him from that cut very distinctly.

116. Is that all you heard?—Yes, sir.

117. Did the doctor make his appearance to you at all after that day?—No, sir.

118. Had you any conversation afterwards with the doctor or with Mr. MacGillivray, or your father with them in your presence?—When he came up to the office, Mr. MacGillivray asked him what did the doctor tell him and he told him "that he should pay £9 rise and take out a lease," said Mr. MacGillivray and "I thought that because I got a letter, it was £36 rise the doctor was going to put on."

119. Do you remember in the time between Mr. MacGillivray's visit to the lands, and your father's second visit to Tralee, was there any letter sent by Mr. MacGillivray to your father?—There was, sir.

120. Did you read the letter?—I did, sir.

121. Judge O'HANAN.—What was in it?—I cannot remember the exact words of it.

122. Mr. BRODERICK.—But tell the substance of it?

—The substance of it was that he should go into Tralee to see Dr. Crumpe, and settle with him, and that he should take out a lease.

123. There was no more in it?—Nothing to my memory.

124. It was after that then you went with your father the time you overheard this conversation?—It was, sir.

125. Before this lease was given how used you pay the rates and taxes, your father and the lands between them?—I don't know, sir.

Mr. MacGillivray.—He gets half the poor rate and half the county rate.

Cross-examined.

126. Mr. MURPHY.—The doctor told you to be off?—Yes, sir.

127. And you got frightened, I suppose?—I was half frightened no doubt.

128. The doctor had a weakness for making people nervous, did you close the door after you?—I did, but it did not close out for good.

129. What room in the house was it in this interview between your father and the doctor?—As you go in the door, it was at your right hand side.

130. Was it upstairs or downstairs?—I don't know but as you go in from the street.

131. It was the first room from the hall?—Yes, sir.

132. And when the doctor told you to be off, you went out and shut the door after you?—Yes.

133. And all you heard were the critical words, as they now turn out to be, that he was to take a lease and pay the rise?—Yes.

134. And when you heard that you cooked your ear to try could you hear any more?—Yes.

135. And you could not hear any more?—No.

136. Did the doctor speak in a lower voice after that?—I could hear, but not distinctly. There was many words passed, but I could not put the sentence together.

137. But when the Act passed last August, you thought about those words that you heard?—No, sir.

138. From 1871 up to 1881 did you ever think about these words that you heard the doctor say?—How old are you now?—I suppose I am between forty and twenty.

139. That is a good wide margin, you were a lively gossoon in 1871?—Well, I was.

140. And you had great notions about the taking of a lease?—I had not because it was impossible for us undergoing the difficulty of trying to pay our rent.

141. Did you not think it would be an advantage to put yourself in a position that Dr. Crumpe could not no more rent on you?—No, because it was no use.

142. Was it you told your father to pay the increase and take a lease?—I did not.

143. Are you the eldest son?—I am not.

144. Are you the boy that is to get this farm?—I would get it—there is about eight years ago—if I would only take it, but I said to myself it would ruin my life.

145. And you did not take it, did he not get you married yet?—He did not.

146. How long before this was your father talking about getting a lease of this place?—I don't know.

147. Used you to go with him to Tralee when he came to pay rent?—I used not.

148. Did you ever hear your father say he would pay £20 for the farm if he got a lease?—Never.

149. And you never heard him say that he spoke to Mr. MacGillivray about it?—Never.

150. Upon your oath did you never hear your father say he spoke to Mr. MacGillivray about getting a lease?—Never.

DANIEL DE C. MACGILLIVRAY, examined.

May 8, 1885.  
Daniel De C.  
MacGillivray.

151. Mr. Murphy.—Do you recollect how long you were agent to Dr. Crumpe?—About 1864.

152. And when you became agent we have it that this man was paying £18 rent?—He was.

153. These lands are situated at Inch, about twenty miles from Tralee?—Yes.

154. Used he go into Tralee to pay his rent or used you go out to the lands to collect it?—He generally came into Tralee.

155. You knew Sullivan pretty well?—Oh, yes, since I became agent; I never knew him before.

156. Will you tell us anything that occurred between you about the lease of those lands?—Oh, yes; Sullivan constantly asked me to get him a lease of £20 a year, and I pressed Dr. Crumpe to give it, and he would not.

157. Did you communicate to Sullivan what Dr. Crumpe said about it?—I told him he refused.

158. Do you remember going out to the lands?—I do.

159. And you heard what Sullivan said about taking down a list of his improvements?—I may have done so. I walked over the place with him, and he showed me some drains.

160. Was anybody with you?—Nobody but Sullivan himself.

161. Had you any talk with him that day about a new arrangement with Dr. Crumpe?—I told him that Dr. Crumpe directed me to tell him that he would get a lease at £24 a year, and no less.

162. You had been previously trying to get him the lease at £20 a year?—I had been constantly asking him.

163. Sullivan says you directed him to come into Tralee?—Yes, he came in soon after.

164. Did you go with him in to Dr. Crumpe?—Yes; Dr. Crumpe said he should pay £27, and I turned round and said “No, Dr. Crumpe, you said he should get it at £26.” He appeared rather annoyed at my saying it.

165. He was rather an insipid old gentleman?—He was very much so.

166. And upon that was anything said about serving him with a notice to quit?—I do not recollect it, he may have said it.

167. Yet never did serve him with a notice to quit?—Never.

168. Was there any agreement come to on that day?—No, I was not there afterwards.

169. Judge O'Hanrahan.—No agreement was come to on that day?—No.

170. Mr. Murphy.—Who did you learn from, that the terms had been accepted?—I could not tell you, all I know is that he took out the lease, and has paid me at that rate since. Dr. Crumpe said he would not give it at less than £27.

PATRICK SULLIVAN, recalled.

Patrick  
Sullivan.

180. Mr. Bradshock.—What does your farm feed; how many cows have you on it?—I do have six cows sometimes and five sometimes, because it is scarce land on the side of a mountain.

180. How much young stock do you have on it along with these five or six cows?—I don't have any stock on it; I send them on the mountain.

181. Do you feed any of the young stock of the five or six cows on your own land at Anascaul?—I do not, only the sucklings that I keep in a little garden near the house.

182. Mr. Venison.—Does he feed no stores of any kind?—I do not, only the houses.

183. Mr. Bradshock.—Now, when the sucklings grow big, do you send them off to another place?—I paid £2 to another man last year for two sucklings I had.

184. Now, how much butter do you make?—Six

firkins of butter, and maybe I would not make the six at all if they were striped.

185. But six firkins, what on an average do you get for each firkin of butter from that wild place?—I used to sell six of them for £2 a piece.

186. On your oath did you get more for them than that?—On my oath I did not. I got 5d. last year for a firkin, and 2d. for a half-firkin, and the rest of it did not bring only 2d.

187. Mr. Murphy.—How many cows have you at present?—Is it on the land?

188. How many cows have you at present?—I have only the six, and two heifers and three sucklings I am rearing.

189. Have you any cows anywhere else?—I have not.

190. Have you more than six cows?—I have not, only two heifers.

第10章

Patrick  
Sullivan

291. I perceive you have a right of grazing upon the mountains of West Inch, have you not?—That mountain would not rear one calf on it, because in the dry weather it does not grow as that.

292. How many of you are joined in this mountain?—The whole world has liberty to go into it.

293. How many tenants on West Inch have the right of grazing on this mountain; what is your share upon the mountain?—I don't put anything at all.

294. How many collop have you the right of putting on it?—It is on the farm?

295. No, but on the mountain?—It would not rear all that.

296. How many have you a right to put on?—I don't know what I have a right to put on.

297. Do you know that there are 500 acres of mountain there, and it is divided between five tenants; have you anything there more than these two heifers?—I have not.

298. Had you ever any more than two heifers grazing upon these lands in addition to the six cows?—I had not.

299. But had you ever?—Bogart, I don't know what had I ever.

300. What was the most number of cattle you ever had?—I wish I had them.

301. I want to know what was the most you had upon these lands and the mountain bog?—I swear by oath that the three heifers I had—

302. What was the greatest number of cattle you ever had upon this land without the mountain adjoining?—There was not past three heifers there.

303. Do you swear you never had more than three heifers in addition to the six cows, that you never had more than nine horned cattle altogether?—Every year, I had not.

304. Had you in any year more than nine cattle?—I had not; maybe the suckling I would rear the year I should sell it next year to pay the rent.

305. Mr. Frederick—About these two or three heifers, are they grazing on this mountain at all?—They are not. The two sucklings I reared last year, I paid £3 for them out of another farm.

306. And so you have no heifers grazing on this mountain?—I have not.

BEFORE MR. JUSTICE O'HAGAN, AND MR. COMMISSIONER LITTON, a-

May 20, 2012

WATERFORD, SATURDAY, MAY 27<sup>th</sup>, 1882.

ELLEN LANGTON, - - - - - *Tenant*;  
MARIA BUTLER, - - - - - *Landlord*.

Mr. Matheson appeared for the tenant, and Mr. J. C. Glass, Q.C., for the landlord.

Longfellow

### **False Lassos, snare and exploded.**

1. Mr. Matheson.—You are the present tenant of these lands!—Yes.

2. When did you become tenant—I was born there, and my father and grandfather for a hundred years.

3. What was your unmarried name!—Walsh, my grandfather was Dowall.

4. How long ago is it since your husband died!—Twenty-three years last October.

5. From that time up to the date of the taking of the lease were you tenant from year to year to Mrs. Butler!—Yes, I was.

6. What amount were you paying just before the lease?—£39 2s. 3d., that was the settled rent at that time, and before that we were only paying £36—a few years before.

7. Do you recollect the rent being different before that; what rent was your husband paying!—He paid different rents; it was raised one time on him from 25s.

8. Mr. Gilligan.—What rent was your father paying!—25s. for a start, but not at all times, it was raised from 13s. to 25s.

9. Judge O'HAGAN.—What acres do you cultivate by—Irish acres, 41s. 3s.

10. Mr. Matheson.—Do you remember the rent being £35!—Yes, I do, I remember to have paid my husband and father.

11. Did you pay it!—No, I did not pay it, I was with them.

12. From 1862 up to the granting of the lease the rent had been £39 2s. 3d.—Yes.

13. Before you got this lease at all were you able to pay the rent punctually!—Never was, only one year of the twenty-three years.

14. Do you recollect, in 1874, getting a letter from Mrs. Butler!—Yes, sir.

15. What did you do with that letter!—Masha, I don't know! Dear knows, I cannot recollect; it may be at home some place. My son is here that read the letter and answered it back again.

16. What was that letter about? Did you get another letter after that!—I cannot recollect, but I got a notice to quit and ejectment.

17. Were you afterwards served with a notice to quit!—I was served with an ejectment for two years' rent.

18. Judge O'HAGAN.—Have you got that!—I had to send it to my brother in America to pay the rent for me.

19. Mr. Matheson.—He is, I believe, a priest in America!—He is.

20. Were you served about the same time with a notice to quit!—After that I went up and got time.

21. How long ago is that!—The same year before the lease, I cannot recollect the date.

22. When you were served with a notice to quit did you go to Dublin to Mrs. Butler!—I went before that to Mrs. Butler to get time for the two years' rent, and then she proposed the lease to me, not herself, but Mr. Kilkelly, in her own house, that herself was an old woman, and it was better for me to get a lease; and Mr. Kilkelly came in, I told him I did not want a lease, and never would be able to pay it, and said it when I was signing the lease, always said it, and never will, nor can't unless it is taken off me.

23. At that interview did she propose the increased rent!—The old lady herself did not, but Mr. Kilkelly came into the parlour, out of his own office, and proposed the lease, and I should accept the lease, I had only three weeks to stay in the house.

24. Did you ask for time!—Yes, sir.

25. Was there anything said about increasing the rent at that interview!—Certainly there was.

26. What was it!—25s. an acre.

27. Judge O'HAGAN.—Who said that!—Mr. Kilkelly, to my recollection, said it.

28. Mr. Matheson.—And you said that you could not pay the rent, and never would be able to pay the rent?—Yes, I did.

29. I believe Mrs. Butler gave you some time, a month?—Yes, she did.

30. How much time did she give?—She gave me a month's time.

31. In the course of the month's time did you give any rent?—I did, I was able to make up £31, then my brother sent a letter to her.

32. What did you do with that £31?—I sent it to Mrs. Butler.

33. Did you get any money from your brother in America?—He wrote to me.

34. Did Mrs. Butler afterwards tell you?—She did; she told me—

Mr. Gilson objects.

35. Mr. Matheson.—Had you afterwards a conversation with Mrs. Butler?—Never, sir, but the once.

36. Had you with Mr. Kilkelly?—Not at that time, nothing of any importance; never any communication with Mr. Kilkelly, only one time he came down to the house to me, passing by, and I asked him to give me some reduction.

\* 37. You sent £30, at any rate—did you ever get any receipt?—It was Mr. Dempsey I gave it to, and he received it as I paid him, the agent. I never was able to pay the rent in full, and sometimes I used to get no receipt.

38. Did you get any receipt for a few years before the taking of the lease?—Yes, he would give me a receipt or acknowledgement; when I could pay the rent in full I would get a receipt, when I could not I would get an acknowledgement, according as I had it paid on account.

39. When did you next hear about the lease?—Mr. Kilkelly wrote to me that we should take a lease.

40. Judge O'HAGAN.—Have you that letter?—I have not that letter, but I have proof of it, and if I did not take a lease I might abide by the consequence.

41. Do you know what became of the letter?—I cannot, I did not think I would go into law—the letter is lost; it was that if I did not take the lease I might abide by the consequence.

42. A letter from Mrs. Butler?—Mrs. Butler's name; I cannot tell who wrote it, they were all concerned.

43. Mr. Matheson.—Were you under notice to quit at this time?—He served me with notice to quit the July after; I remember the date of the time, but I don't remember the date of the year.

44. Well, now, do you recollect after that anyone coming from Dublin?—I do.

45. Do you know his name?—Well, I cannot recollect his name either.

46. What did he do when he came?—He came and he told me I should give him possession of the house, and lands, and all.

47. Had he anything with him?—He brought the lease.

48. Did he say anything to you about the lease?—Mush, I suppose he did; I only signed it in my own room, and told him I would never be able to pay that rent, never—just took it to keep me in the house a few days.

49. Was that after asking you for possession?—Oh, yes, it was.

50. Did you sign the lease in your own room?—I did.

51. Was there anyone present with you but this gentleman from Dublin?—Thomas Manning, of High-street; he was one of the witnesses.

52. Did you read the lease before signing?—Sure I could not read it at all.

53. Did you read it, as a matter of fact?—I did not; I could not.

54. Did he read it for you?—I don't know did he read it to me, but Mr. Kilkelly read the contents of it in Dublin before I got it.

55. But, on this occasion, when this man came down

from Dublin<sup>1</sup>—To my knowledge he did not read it then. Aug 27, 1901.

56. Did you sign the lease?—I did. Eliza Langton.

Cross-examined.

57. Mr. Gilson.—When your husband died, twenty-three years ago, he left a family behind him?—Yes.

58. How many daughters had you?—Three.

59. Mr. Matheson.—Since you got the lease who has paid rent for you?—My brother.

60. That is the priest in America?—Yes.

61. Mr. Gilson.—You say you had three daughters, I think, and how many sons?—Three.

62. And, I believe, the three girls are in religion, are they not—are they not in convents?—There are two.

63. And one of your sons is, I believe, a gentleman who has become a priest; has he not?—No, sir; he is preparing for it.

64. And you were at considerable expense for him?—I was not.

65. Had you not to pay £30 a year for him?—No, my brother.

66. Always paid?—Go to the President, in Killarney, then, and my daughters he did for them himself.

67. Where are your other sons?—They are at home.

68. This farm of yours is principally a grass farm?—It is bad grass.

69. As long as you recollect it has it not been a grain farm?—Yes.

70. How many head of stock are there on it?—There is only two at present.

71. How many are there on an average?—I used to have eight or nine or ten.

72. Do you ever take in any grazing cattle?—Sometimes.

73. How near is this place of Johnswell to the town of Killarney?—Four or five miles.

74. And this Mr. Manning, who was the witness to the lease, you were acquainted with him before?—Yes.

75. He was an adjoining tenant?—He never was a tenant until he took the land.

76. You recollect a time when your father paid 25s. rent?—I do, and recollect a time he only paid 12s. and 9d.

77. I believe the rent was reduced from 25s. an Irish acre, in the bad times, to £39?—Yes, and to £35 for a few years.

78. And then it was raised to £39 as times got better?—Yes.

79. Your father had a big family?—He had.

80. You were always on very good terms with Mrs. Butler, were you not?—Certainly I was, because she gave me time from time to time, she settled £39 for a fair rent for ever.

81. Did you write letters from time to time to Mrs. Butler?—Is it for a lease.

82. Did you write letters to her at all?—Never, unless I wrote for time.

83. Did you write a letter at all?—I cannot remember.

84. Just let us see, because your recollection appears defective, was the first that you ever saw of a lease the document which was brought down by Mr. Kilkelly's clerk, Mr. Farrelly, to your place?—I don't know, I cannot tell. Did I not tell you that Mr. Kilkelly came to me with the lease when I was up in Dublin.

85. You said you never read the lease?—I said that I never saw the lease until when I came to look for it, he proposed it to me.

86. You said that you never read the lease that was brought to you by Mr. Farrelly?—I could not read it.

87. Can you not read writing?—I can write my name, but I could not read that lease.

88. Can you write?—I never wrote more than my name, I never wrote a letter.

89. I suppose it is your daughters write the letters?—No, my son.

May 27, 1882.  
Eliza Langton.

90. Was your son in the house the day the lease was executed?—Yes, he was.

91. What aged boy is he?—He is twenty-eight now.

92. Before you got this lease brought down to you from Dublin, by Mr. Kilkelly's clerk, had you got what is called a draft of the lease, that is a copy of the document you were to sign?—I don't know.

93. Do you recollect getting a copy of the lease in the month of December or January from Mr. Kilkelly, showing you what was the lease you might execute?—I suppose he might.

94. He might do anything; did he?—I cannot recollect, it may happen.

95. Was there any discussion between you and Mr. Kilkelly as to what lives were to be put into the lease?—Yes, there was, and I always told him I did not want the lease.

96. Did you say you would put in your son's name in place of Nicholas Connerford?—Yes, I did.

97. And you said that by a lease?—If I did not I was turned out.

98. Is that (produced) your letter?—I cannot say; it is my son's, I think.

99. This is a letter in answer to a letter of Mr. Kilkelly's sending the lease in the month of December, 1875, and this is a letter of 24th January, 1876 (read's Letter). You say you were on friendly terms with this lady, Mrs. Butler, and were you on friendly terms with Mr. Kilkelly?—I never had an argument.

100. Did you think that he was kind and considerate to you?—I think that he was imposing that rent on me, and she was a great deal kinder before he came to act for her.

101. Did you think Mrs. Butler and Mr. Kilkelly were kind and considerate to you?—She was kind to let me pay rent in instalments, that was kind of her.

102. That letter (Dec. 10th, 1877), I believe, is in your son's handwriting too; just look at it?—Yes, it is.

103. (Reads letters of December 10th and December 22nd, 1877.) Your objection, as I understand, was to the rent being restored to the figure that it had stood at originally in your father's time?—Certainly, sir, that is my objection to the lease.

104. Otherwise you hadn't any particular objection to the lease?—I had an objection that I should be allowed for the improvements, I built houses there, what was never in them in my father's time. I made double ditchies, and quirked where it was waste.

105. How long was that?—Ten years ago.

106. When was it you had the interview with this lady in Dublin?—I will tell you that. When I went up to Dublin to look for time, when I was served with an ejection for two years' rent. I never saw it until then.

107. Was Mr. Kilkelly present at that conversation?—He came in.

108. As I understand, your son was present, this boy of twenty-eight years of age, who is able to write such an excellent hand, when this lease was executed?—No, he was not at home.

109. Were any of your sons present that day?—No, no one but myself, and Thomas Manning and Farrelly.

110. How was it that in the original lease there is

written in in blue ink the name of the life?—Oh, if I did not give consent to let that lease be done I was out there weeks afterwards, I went to Mr. Dempsey and he told me to go off to Dublin or I might not be there Christmas night.

111. What year was this conversation?—I have not the dates.

112. When was it?—Before Christmas Day.

113. What Christmas Day?—It must be the Christmas before I took this lease or the Christmas before that.

114. Or the Christmas before that again?—It was not, it was not further than that.

115. You wanted, I believe, to sell this farm after you got the lease?—Never, sir; who would take it from me?

116. Do you mean to tell me you never wanted to sell the farm?—I do, sir.

117. Do you know anyone of the name of John Butler?—I do.

118. Were you ever bargaining with him about his taking the land from you?—How would I be bargaining with him.

119. Here is a letter of Tuesday 28th, 1873 (produced)—Do you know what way that was?

120. I don't want to know, I asked you the question, now I will contradict you by this letter. Is this your son's handwriting?

William Langton.—It is not my handwriting, I never wrote it—it is like my handwriting.

Mr. Gleeson.—Very well, I will prove it presently

#### Re-examined.

121. Mr. Matheson.—What improvements had you made on the land before you got the lease—did you make any buildings?—I did.

122. What buildings?—I built forty-one feet of a cow-house alone.

123. Mr. Gleeson.—After your husband's death?—Yes.

124. Mr. Matheson.—What is the size of that cow-house?—It is about ten feet.

125. Are these the correct measurements—42 feet long, 11 feet wide, and 8 feet side wall high. Did you build a barn?—Yes, sir.

126. Was that in the year 1873?—Yes, sir.

127. Did you make any ditches?—Yes, sir.

128. How many perches of ditches?—I think it is there.

129. Did you make twenty-seven perches of quick-set hedges in 1868?—Yes.

130. Did you make thirty-two perches in 1869?—Yes.

131. Do you know of any improvements made by your father?—I do, because he was always improving the land, draining it and liming it.

132. Mr. Gibson.—How long is your father dead?—Twenty-three years, three months before my husband.

133. Mr. Matheson.—Was the land improved by what you had done to it?—It is something improved, it is very bad these five years—nothing on it—all swept away by the water.

134. How much do you owe now?—A year's rent, and he served me in Kilkenny with a writ six months ago.

#### WILLIAM LANGTON, sworn and examined.

135. Mr. Matheson.—You are the son of the last witness?—Yes, sir.

136. And, I believe, you work the farm along with your brothers?—Yes.

137. How many brothers have you got?—Two brothers.

138. At home?—Yes, myself and another.

139. Do you recollect whom the first letter came from Mrs. Butler?—Yes, I recollect the first letter,

and my mother owed a year's rent at the time of up-wards.

140. What became of that letter?—We never kept letters that we received that way, but I wrote an answer. The first letter from Mr. Kilkelly came demanding an increase of rent.

141. Mr. Gibson.—Was it from Mrs. Butler or Mr. Kilkelly?—Mr. Kilkelly's writing, but it was in Mrs. Butler's name.

142. Mr. Matheson.—What was in the letter?—It was proposing—in the old time there was 25s. paid for the farm and she was looking for that rent again. Mr. Manning at that time had taken a farm and paid some money for it, and perhaps they thought—

143. At any rate they said the rent in the old times had been 25s. an acre and they wanted to get that rent now!—I wrote an answer to Mr. Killally then and told him our farm was not worth half the rent we were paying. Very soon after that we received another letter from Mr. Killally telling us to abide by the consequences if we did not sign.

144. Did you send any answer to that letter?—We did not answer that letter.

145. What came next?—To the best of my opinion next came the notice to quit.

146. Judge O'HAGAN.—How long was the notice to quit before the lease, do you remember?—I think the notice to quit was the July before we got the ejectment.

147. What are your gale days?—29th September and 26th March.

Mr. Gibson.—It was July, 1875, for the following September twelve months.

148. Mr. Matheson.—What next came after the notice to quit?—An ejectment for two years' rent came next.

149. You think that followed the notice to quit?—I think so; as far as my judgment goes.

150. What came next after that, do you recollect your mother going up to town?—We sent off the ejectment to the cascade in America, the priest, we should do it, or we would be turned out for the rent.

151. After that do you recollect a man coming down from Dublin, or were you there that day?—I remember him coming down from Dublin, but I did not take part in the business.

152. Were you present when the lease was executed?—I was not present in the room, but I saw Mr. Manning and this man from Dublin. I did not take part in the business.

153. Were you there when he demanded possession?—I might be about the place.

154. You saw two men there?—Yes; I was present and she giving possession, but not while they were signing the lease.

155. And was it the same day the lease was signed?—Yes.

Cross-examined.

156. Mr. Gibson.—Would you please look at that blue ink there (lease). Is that your writing?—Yes.

#### JOHN KIRKELLY sworn and examined.

John Kirkelly.

157. Mr. Gibson.—You act as the solicitor for Mrs. Butler?—I do.

158. And you are nearly connected with her, as we all know. Do you recollect in May, 1875, proposing an increase of rent to Mrs. Langton?—I do.

159. Were you aware of the former rent which her father had paid?—I was.

160. And did you make that proposal to her by a letter of the 25th May, 1875?—I did.

161. Have you got it in your letter book?—Yes (reads letter).

162. Tell me before that letter had you any interview, or Mrs. Butler with Mrs. Langton?—I think not.

163. There was an arrear of rent, I think, due by her at that time?—I recollect Mrs. Langton coming to Dublin twice.

164. What period about did she come to Dublin, had you to bring an ejectment for non-payment of rent against her?—I had.

165. About what was the date of that?—I think it was in November an ejectment for non-payment of rent was brought.

166. November, what year?—1875.

167. When did you write in that, may I ask?—How can I say; I cannot give dates.

168. Taking leave is a rather strengthen thing according to your idea?—I cannot say now, it is my writing at all events.

169. Did you put it in the month of January or on the very day that Mr. Farrelly came there with the lease in accordance with any previous arrangement?—I did not put it in on the day Mr. Farrelly came down, and anything I done on that account was to stay proceedings against me, because ejectments were hanging over us.

170. When did you write it in?—I cannot tell.

171. Did you write it in before or after?—I suppose it must have been before he came down.

172. Then, do you recollect seeing that lease before Mr. Farrelly came down?—I do not.

173. Do you recollect discussing with your mother who the life was to be in the lease?—I cannot say we had any conversation about it.

174. Were you not the managing man on the farm?—I was.

175. Do you mean to tell the court that you and your mother had not any talk at all about Conner's name, which was suggested to be struck out, and the son's name put in?—We might have a talk about it.

176. Do you not recollect it, man?—I cannot say positively I recollect it.

177. Do you recollect seeing that document before it was executed—the lease?—No; I never saw the lease before it was executed.

178. Did you see that document which is marked with your own handwriting before the lease was executed?—I won't swear positively I did.

179. Will you just look at that handwriting (letter, Tuesday, 28th, 1879), is that your handwriting, on your oath?—Yes, it is.

180. Why did you say a moment ago you did not know whether it was or not, did you say that?—I said it was like my handwriting.

181. There is no doubt that your mother was mistaken when she said there never was any arrangement suggested between her and Butler about Butler taking the place, she was mistaken!—She must be mistaken.

182. Do you observe the date of that letter in 1879?—I see by the date of it.

183. Mr. Matheson.—Do you know how much rent your mother owed at that time?—I cannot recollect.

184. What was the date of the notice to quit?—July, 1875.

185. For what period, when was it to determine?—In September, 1876.

186. When was it do you recollect that you had the interview with her in Dublin. Was there any answer given to that?—I think there was, on 5th June, 1875 (reads letter).

187. I believe you did give her time for a couple of months more?—I often gave her time, took it by instalments.

188. Do you know anything at all about that sum?—No.

189. Had any claim been made upon you on the subject?—Never.

190. Was there any answer at all to your letter of the 25th May, before you got that letter of the 5th June?—No.

191. Did you write any intermediate letter?—I don't recollect.

192. If you look on the 2nd June, I think, you'll see there is a letter?—Yes, it is only a formal letter asking for a reply—(Reads letter).

193. Then I believe you wrote a letter to her on

May 21, 1888.  
John Kilnelly.

the 9th June, calling attention to the fact that she had not made any answer at all to your application for an increased rent!—Yes.—(*Roads letter*).

194. You knowledge of the former rent was derived from some old rental?—Yes, and from Mrs. Butler.

195. I believe this farm was a grass farm?—So I understand.

196. This is a letter of the 17th June, 1875—(*Roads letter*). Did you say it was very bad land?—I have no recollection of saying anything of the sort.

197. Is all the land upon this estate of about the same quality?—I cannot tell you exactly.

198. On the 19th June, did you write a letter to Mrs. Langton?—I did.—(*Roads letter*).

199. On the 2nd of January, 1876, did you get any other letter from her?—Yes.

200. There was no answer to that letter of yours of the 19th June?—I think not.

201. (*Roads letter 3rd January, 1876*). Had you sent a draft of the lease before this letter was written?—I think so. I sent her a draft lease for approval.

202. And is the lease just mentioned in that letter of yours that draft?—Yes.

203. You have a letter here of the 23rd January, 1876?—Yes. (*Roads letter*).

204. And have you got a letter of the 8th April, 1876?—Yes. (*Roads letter*).

205. And 18th May, 1876. (*Roads*). Was Mr. Farrelly your clerk?—Yes.

206. I believe he has since left your employment?—Yes.

207. And has he been called away to London?—Yes.

#### Cross-examined.

208. Mr. Matheson.—When did you first begin to manage affairs for Mrs. Butler?—I am her son-in-law. When I was married.

209. Did you always manage with reference to this estate?—I looked after it.

210. Then I presume you knew that the Government valuation of this farm, including buildings, was £33?—£35.

211. And you were aware at the time these negotiations began that the rent of the farm was nearly forty per cent over the valuation?—I was not; the rent of the farm was £30.

212. You thought that a rise of rent was necessary?—I did.

213. Were you aware of the fact that Mrs. Langton had never been able to pay the old rent punctually?—I was aware that she was a most unsatisfactory tenant in her payments, and she was constantly receiving indulgence.

214. And she used only to pay rent in sums on account, is not that so?—I cannot go into exact details.

215. Tell me, in this first letter you wrote you said that Mrs. Butler was determined to get the new rent?—Yes.

216. Then I suppose it is true what the tenants said, that if they had not agreed to that rise of rent you would have turned them out?—I don't know that I would have proceeded to that extreme in the end.

217. But you served them with a notice to quit?—I did.

218. Was not that for the purpose of getting them

to agree to the lease and increase of rent?—Not for a lease, I swear that.

219. If they had not agreed to pay the rise of rent you would have turned them out, I presume?—Well, I would not like to say that, I hardly think.

220. Was it you drew this lease?—Yes.

221. Do you consider it a fair lease?—Well, I sent her down the lease in the middle of December, and I left her a month to consider it, and she sent it back to me.

222. But that is not an answer to my question, do you think it was a fair lease to impose on a widow and struggling tenant?—I consider it a strict lease, I never pressed her in any way to take a lease. I looked upon that lease as equal to fifty years; from the hour I first communicated with her until this notice was served on me, I never had a question about that lease.

223. Do you think it is a fair thing, Mr. Kilnelly, as a professional man of standing, to ask a tenant without professional advice to sign a lease binding her to improve her holding and reclaim it, and to deprive her from getting any compensation for that?—I deny I asked her to do it without professional advice, I sent her the lease for approval.

224. Do you consider that it is a fair thing to force a tenant from year to year to sign a lease binding her to erect permanent buildings on her holding, and barring her from getting compensation for it?—That is a matter for her consideration; I think it was perfectly fair.

225. Was it not the object of that clause to deprive her of the rights she otherwise would have under the Act of 1870?—Certainly.

226. You sent down Mr. Farrelly from Dublin?—I did.

227. To get this lease?—I did.

228. And it was executed in presence of the representatives of the lessor alone, is not that so?—It was executed in the presence of Mr. Thomas Manning, one of the tenants.

229. He was brought by Mr. Farrelly?—I believe he executed a lease himself the same day.

230. And he was brought to witness this?—I don't know how they managed it.

231. Do you not think the expression, "You must bear the consequences" is rather significant?—You can form your own conclusion on that!

232. There is a reference in the letter of the 3rd January I would like to have cleared up.—Thinking Mrs. Butler for her kindness, "was not that for giving time for payment of rent?—It must have been.

233. You are aware that there was a little plot of ground belonging to other tenants which was actually in the middle of Mrs. Langton's holding. Do you know the property?—I was on it once.

234. But you have no reason to doubt what she said. Were you present at the interview in Dublin with Mrs. Butler?—I remember Mrs. Langton being in the dining-room, and going in there.

235. But you don't remember what took place?—I am perfectly sure Mrs. Butler never insisted on her taking a lease.

236. Were you there?—When I was there, there was no such thing.

BEFORE MR. JUSTICE O'HAGAN, AND MR. COMMISSIONER LITTON, Q.C.

WATERFORD, SATURDAY, MAY 27th, 1882.

May 27, 1882

MARY POWER, - - - - - Tenant;  
REPS. J. P. FITZGERALD, - - - - - Landlord

Mr. E. Carson, appeared for the Tenant; and Mr. J. G. Gibson, Q.C., for the Landlord.

MARY POWER, sworn and examined.

Mary Power

1. Mr. Carson.—I believe you are the widow of the late Patrick Power?—Yes.

2. Your former name before you married Patrick Power, was Duggan?—Yes.

3. I believe your father held these lands before you married?—Yes.

4. And your husband as they say married into the lands?—Yes.

5. We have the agreement dated 22nd May, 1852, for twenty-one years from May, 1852, the rent payable under that agreement was £113 a year, "On behalf of John Fitzgerald, esq., I accept the above proposal." Now I believe Mrs. Power, that for many years prior to your husband's death he was in very bad health?—Yes.

6. And I believe he was very much confined to the house and to his bed?—Yes.

7. And I believe you used to transact most of his business?—Yes.

8. Did you get that receipt (produced)?—I did, sir.

9. This is from James Kearney, was he the agent of the property?—Yes.

10. The date of the receipt is October, 1874, and it is for the rent up to 4th May, 1874, £50 5s., amount of half-year's rent due to John Purcell Fitzgerald, esq., out of the holding in Ballygorman Castle.

11. I believe these (produced) are your last receipts in your own name since your husband's death?—Yes.

12. At the time of your husband's death I believe there were two children living?—Yes, sir.

13. You have no children living now?—No, sir.

14. When did your husband die?—28th September, 1878.

15. Do you remember yourself the negotiations about this lease?—Yes, sir, I do.

16. What was the first intimation you received about the lease?—A letter from Mr. Dobbin to come in to sign it.

17. Have you got that letter, Mrs. Power?—I don't think I have.

18. Did you look for it?—I did, all the letters I had I gave to Mr. Kelly.

19. At the time you got that letter in what state of health was your husband?—He was dying.

20. Do you remember the purport of the letter?—To come in and sign the lease, and if he would not be able Mr. Dobbin would bring it or send it out to sign.

21. Had you, Mrs. Power, any previous conversation with Mr. Dobbin, with reference to the lease?—No.

22. Now you told us already it was to come in and sign the lease?—Yes.

23. Did you say your husband was in a dying state?—Yes.

24. Did you go into Mr. Dobbin on receipt of that letter?—Not immediately.

25. Judge O'HAGAN.—What was the date of the letter?—I haven't an idea.

26. Mr. Carson.—How long prior to the signing of the lease?—It was from ten days to a fortnight.

27. Was Mr. Dobbin at that time the agent of the

properly, used you to pay the rent to him?—He was the solicitor.

28. Judge O'HAGAN.—He did not die for four years after?—No, my lord, but everyone thought he was dying.

29. Mr. Carson.—Now did you go in with him to Dobbin's?—Yes.

30. Will you tell us what took place now as Dobbin's, what did your husband say?—He told him he could never pay the advanced rent he was paying now, the sum was already too high and there would be no use in taking the lease.

31. What did Mr. Dobbin say to that?—My husband said if he could claim compensation he would leave the place he would not take the lease.

32. Did he say anything else?—He said if he had his health that he would not live in it at all that he could not.

33. What did Mr. Dobbin say to him?—Mr. Dobbin said that he was not entitled to compensation, that he got £150 at some former time and that when they were giving him that they knew what they were doing, they only wanted to get at the blind side of him, these were the words Mr. Dobbin used.

34. Did your husband then refuse to take the lease?—He did, sir.

35. Was it on that occasion the lease was signed?—It was.

36. What did Mr. Dobbin say when your husband refused to take the lease?—He said Mr. Joyce, of Abbeyfarm, would take the place if he had not a lease.

37. Did he say anything else?—He said on account of the state of his health what could he do if anything happened him, where were I and my children to go; we would have to go out on the road.

38. Judge O'HAGAN.—Who said that?—Mr. Dobbin.

39. Mr. Carson.—That you would have to go out on the road?—Yes.

40. Did your husband say anything further?—No, sir. He said of course he should sign the lease then, but he would be said by whatever Mr. Dobbin advised him, as he believed Mr. Dobbin was his friend.

41. Did he on that occasion then in Mr. Dobbin's office sign the lease?—He did.

42. Now, Mrs. Power, do you know of your own knowledge any buildings that your husband had done on the land?—Improvements were made by my father.

43. Do you know what improvements your father made?—Yes.

44. Just tell them to the court!—He built a range of cow-houses.

45. Mr. LITTON.—These were during the currency of the former agreement?—It was in my father's time, before the agreement had expired, and under the old rent.

Cross-examined.

46. Mr. Gibson.—This farm, Mrs. Power, is about three miles out of the town?—Yes, sir.

47. And it is, I suppose, good land?—It is good land.

May 21, 1882.  
Mary Power.

48. And might I ask, just for curiosity, have you any other land besides this farm?—We have.
49. Under whom do you hold it?—The same landlord.
50. How much land do you hold under the same landlord?—We hold the Castle farm we call it.
51. What was the name of this particular farm—by-the-bye?—Ballygunner Castle farm.
52. And the other farm?—Ballygunner More.
53. What are the acreages of these farms?—Ballygunner More, twelve acres.
54. How many acres have you in the other?—In Ballygunner Castle farm it is mentioned there is fifty acres.
55. That is in the lease?—That much is not in it; we got the farm surveyed.
56. How much land have you got besides the land included in the lease?—We have a bog of about eleven acres.
57. And you have twelve acres also in another take?—Yes.
58. Have you got any other land?—No.
59. You hold that under the same landlord?—Yes.
60. Are you tenant from year to year, may I ask?—Yes.
61. How long have you been tenant from year to year?—Twelve years.
62. So your husband was tenant from year to year of two other farms at the date of this lease?—Yes.
63. Now, Kearney, the agent, is dead?—Yes.
64. You said in the course of your evidence that your husband said Mr. Dobbin was a good friend of yours?—Yes.
65. Mr. Dobbin has the custody of your husband's will—he is your solicitor?—Yes.
66. He was your husband's solicitor at the date of this lease?—Yes.
- Judge O'HAGAN.—Was he also the landlord's solicitor?
- Mr. Carson.—He was.
67. Mr. Gibson.—It was mentioned, I think, Mrs. Power, by Mr. Dobbin, that your husband had got £150 allowance for improvements?—Yes, my father's improvements.
68. Did you know that of your own knowledge?—Yes, I did.
69. When was that £150 allowance made?—Was it made a short time before the interview in the office?—It was years before.
70. How long?—About seven years before.
71. Was that made by Kearney, the former agent, or Begun?—It was made by Mr. Hickson, the English agent.
72. How do you use this land, for grazing purposes?—Yes.
73. Dairy land?—Yes.

RICHARD DOBBIN, sworn and examined.

101. Mr. Carson.—You are a solicitor I believe?—I am.
102. Living in this town?—Living in Waterford.
103. At the time this lease was made were you solicitor for Mr. James Purcell Fitzgerald?—About 1874, yes, I was.
104. Do you remember getting instructions with reference to this lease?—I do.
105. Mr. Carson.—Were they in writing?—No, they were not.
106. Mr. Carson.—From whom did you get the instructions?—From James Kearney.
107. Mr. Carson.—From whom did you get the instructions?—From James Kearney.
108. Was he then agent of the estate?—He was the then Irish agent.
109. What did he tell you?—He told me what the heads of the lease were, and there was a former agreement of 1850. I will tell you the whole story as far as I know about it. It was in August, 1874, I got the heads of these instructions to draw a new lease—

74. How many dairy cows do you keep on it?—Sometimes twenty-five.

75. And it is three miles from Waterford. Your husband you say was in a dying state at this time?—Yes.

76. Did you live out on this farm?—Yes.

77. And you keep a vehicle, I suppose, horse and cart?—We do.

78. And of course servants?—Yes.

79. And your husband drove in to execute the lease?—Yes.

80. Had your husband any interview with Kearney, the agent, before he went in to see Dobbin?—No.

81. How do you know that?—I am sure of it.

82. Where did Kearney live?—At Grace Dieu, just outside Waterford.

83. How near did he live to your husband's place?—About five miles.

84. Your husband was a comfortable, solvent man?—He was.

Mr. Gibson asked for probate of Patrick Power's will.

Mr. Dobbin said he hadn't the probate.

85. Mr. Gibson.—Was your husband in the course of this conversation objecting to the amount of rent?—Yes.

86. Did Dobbin read out the lease to him?—He read out the first part of it.

87. Did he not read the whole of it?—No.

88. Mr. Dobbin and your husband were good friends?—They were.

89. Do you recollect your husband seeing the agent afterwards?—Which agent.

90. Kearney?—Yes, sir, he did.

91. When he saw him afterwards do you recollect what took place between them?—He never saw him until he went to pay rent again.

92. Were you present when he went to pay rent?—Yes.

93. Where was it paid?—At Grace Dieu House.

94. Your husband went there to pay the rent?—No, I went myself.

95. Did you go to pay the rent?—I did.

96. How long did this interview in Mr. Dobbin's office last altogether?—I don't know the exact time it was not very long.

97. Was it half an hour or an hour?—I daresay it was half an hour.

98. Were there any letters written on this matter by you?—No.

99. Mr. Carson.—Do you break any portion of this item in tillage?—We do.

100. How much in tillage this year?—I think about thirteen acres.

101. He asked you about the cows, are those cows that run from one farm to the other?—Yes, we have only twenty-one cows this summer.

I think it was July or August, I took a look at my memorandum book last night when I heard I was going to be examined in this case and I found an entry in August, 1874, instructions for a lease, it is in my own memorandum book. I drafted a lease and after I drafted the lease I sent it to the English solicitors, White, Morris & Co., I think, and they sent it back with a number of alterations, a long correspondence followed asking what was meant by cotter tenants, and what cotter tenants were, and there was a number of extraordinary covenants they wanted to put in. I amended the lease in my own way and sent for Power the tenant, I left some of them in that I thought not very material. I sent for Power, he told me he would not take the lease at all. I asked him why, and he said his rent was increased more than it ought to be. Well said I the instructions I have and they were the instructions, if he did not pay an increased rent over what was in that agreement, I would turn

him out and I told him that. He was a very sickly man although a big man, he had a fit in my office about ten days before the interview and I said to him, "If you get into litigation or trouble it may have a very bad effect on you, and if you take my advice you will take the thing," and he used the expression, "Whatever you tell me to do I will do." I was his solicitor and acted for him, and, although unwilling he took the lease. I then got the lease engrossed and signed by him, I think I am a witness, and I sent the lease across to the English solicitors, and after some time they sent it back to me signed by Mr. Fitzgerald with a bill for their executions—some £5 or £6, and they told me not to give it over until I was paid. But he would not pay it, and after some time I gave it over; both parts remained in my possession until the death of Mr. Purcell Fitzgerald. I was never paid, and I then gave it over to Mr. Howard, who was acting for Mr. Fitzgerald's executors.

110. Your instructions were to put him out if he

did not accept the terms—I told you that before. I told Power considering the state of his health not to go into litigation or anything of that kind with his landlord or that his landlord would go to extremes and put him out, and for the sake of a few pounds not to do so.

Cross-examined.

111. Mr. Gilson.—He was a client of yours and a rich solvent man?—A most respectable man; I never had a more respectable client inside my office, and he died of the same disease shortly afterwards. A very curious thing, the landlord and his only two sons died since, and the tenant and his two sons died since.

112. Judge O'HAGAN.—What about the protest?—I drew a case and submitted it to counsel after the death of the man and his two sons. Mrs. Power is the absolute owner, she had certain rights under the will, and by the death of her two children intestate it all vested in her {proceeds sue}.

May 27, 1882.  
Richard Deacon.

## BEFORE MR. JUSTICE O'HAGAN, AND MR. COMMISSIONER VERNON.

THURSDAY, DECEMBER 15th, 1881.

Dec. 15, 1881.

EDWARD SULLIVAN, - - - - -	Tenant;
ROBERT BOWEN, - - - - -	Landlord.

Mr. D. O'C. O'Riordan, q.c., appeared for the tenant; Mr. Orr appeared for the landlord.

EDWARD SULLIVAN sworn and examined.

Edward Sullivan.

1. Mr. O'Riordan.—You are the tenant?—I am, sir.
2. When did you take these lands?—I did.
3. When?—In the year 1865.
4. From whom did you take them?—From William Bowen, sir.
5. What was your agreement with him?—My agreement was, I came to him and we went about—

Mr. Orr asked for the agreement.

Mr. O'Riordan.—There never was such a document in existence.

6. Judge O'HAGAN.—Was the agreement of 1865 a written agreement?—There was some writing until we would fill the house, for I took the land a month before I got possession. I took it about the end of April.

7. In 1865 you say there was a writing?—Yes.

8. What became of it?—Then when I got possession he told me to buy the lease. And so I went and bought the lease.

9. What became of the writing there was in 1865, what became of it?—I don't know where it is. I bought the lease then, sir.

10. Mr. O'Riordan.—When you came to Mr. William Bowen had you an agreement with him about this holding?—There was an agreement until I would get possession.

11. What was in the agreement?—I don't remember, sir.

12. Did he read it for you?—He did.

13. What did it contain?—It contained when I would go for possession to get a lease, if I bought the stamp, and so I went and bought them.

14. What did you agree to pay him for the place?—£25 at first.

15. Was he satisfied with that?—He was, and we went down to the dinner and he gave me a good dinner.

16. To soften you?—To soften me, and after eating the dinner it was £2 more to pay for the dinner.

17. That was £27?—That was £27, and the present landlord consented to £27—there he is there.

18. Was this gentleman present when that happened?—He was, at the £27.

19. After that did he raise you again?—In two hours time. We had some drink in the way in his own house and before the drink was over it was £30.

20. On that evening did he make out any writing—I want the court to understand it—was there any writing made out by him or you after the £30 was agreed on?—There was.

21. Was it the same day?—No, but a few days after. I did not submit to the £30 that evening, but I came the following day.

22. And you then agreed to the £30?—I agreed to pay it.

23. And he was to give you a seventeen years lease?—Yes.

24. When you came to him then did he draw out any paper in writing, did he or you?—He drew out some writing until I would get possession, and then to buy the lease.

25. Did he ever give you that agreement?—He never did, nor I never signed to any writing.

26. Did he ever give you any agreement?—Never did.

27. Did he show you any writing in a book?—He did not.

28. Did you then after that buy the stamp?—I did.

29. Or buy the paper with the stamp on it?—I bought it two days before I got possession in order to get it ready.

30. Did you give him that paper?—I went to the house to him to get it filled, and we had some differences about a turf bag, in a few days after I got possession; and as I would not give over half the bag he would not fill the lease for me, and the stamps remained in my hands all through.

31. Did you get possession of the place?—I did.

32. And after you got possession he wanted you to give half the bag to somebody else?—Yes, sir, and the first thing he showed me when I went on the farm was the bag.

3rd 12, 1882.  
Edward  
Selwyn.

33. In what condition was the farm when you got it at that time?—It was in a bad state, sir, because the man who was before me was no farmer, but the name of a farmer, he used to be jobbing.

34. When he was letting the place did he take you to see the farm?—He did.

35. Did he point out to you the cows that were on it?—We went up to the upper part of the farm, and it happened the stock was before me, and he said, "there is the man's stock, it rears eighteen cows and a horse." I was a stranger and knew nothing about it, and agreed on the terms it would rear eighteen cows and a horse.

36. Did you then buy eighteen cows?—I had some of my own, and I bought cows to make up the number.

37. Did you put eighteen cows on it?—I did, and put them there before the neighbours, and some of them told me it would not rear but nine cows.

38. How many had you on it?—I keep twelve. I had to sell six, and I was £4 or £5 a less on the six.

39. Did you reclaim the lands?—I did, indeed, sir.

40. How many acres?—I reclaimed land that William Bowen came and advised me I could not till, it was so bad.

41. How many acres did you reclaim?—I reclaimed between seven and eight acres.

42. Judge O'HANAN.—What was it before it was reclaimed?—It was boggy land.

43. It was not regular bog out of which you cut turf?—There was turf cut off some of it.

44. Mr. O'BRIAN.—Was that the land he told you could not be reclaimed?—It was not.

45. When you reclaimed it what did you grow on it?—I set turnips in it first, and I set potatoes and corn.

46. Did you burn lime on the place?—Oh, I did, a good deal of it, then, sir.

47. How much on the average?—Some years sixty barrels, from that to eighty, and down to forty; and worse than that, where I quarried the limestone I could not bring any car there, and I having a car idle at home, and I should draw it on horseback, four or five stones on a horse's back with sticks at both sides, what they call lothesens; that is the way I drew the lime on the farm in a troublesome manner.

48. Did you make fences on the place?—Oh, yes, sir, and planted firs and whitethorn in ditches.

49. How much, to what extent about?—I cannot exactly tell, sir; but indeed himself gave me liberty for these whitethorns to take them out of his own farm, and young bushes growing up, and I planted them in my own place.

50. Did he ever make any allowance in any shape for the reclamation, or lime, or anything else?—Never.

51. I believe in the bad years, two or three years ago, he made you some little allowance out of the rent?—He did, sir, and this year too, about £3 to the pound, he gave it to me in three half-years' rent. Even he used to stick me in the bank every year, and himself as security to me, which I have here, and used to renew bills for me.

52. I believe Mr. William Bowen died about 1860?—I cannot exactly say, he is dead about twenty years or so.

53. Do you remember in 1872 Mr. Robert Bowen coming to you and demanding possession?—Oh, yes, sir, in a threatening manner too.

54. And you refused to give it?—Oh, I did, sir.

55. And you were served with a notice to quit?—I was.

56. And then you were served with an ejectment?—I was.

57. Can you tell when he came to you in 1872?—I think it was in May.

58. Did you pay him your rent all through?—Yes, sir.

59. Down to the present time?—I am not due, but November last.

60. You only owe him November last?—That is all, and indeed I am highly indebted, but I would not like to express my debts.

61. It is not to Mr. Bowen you are indebted in any shape or form?—Not at all, sir.

62. Now, I suppose you remember being at the sessions, at Kenmare, in December, 1873?—So I ought, sir.

63. And Mr. Bowen was there?—He was.

64. And the County Court Judge heard the ejectment?—Indeed he did, sir.

65. Did Mr. Bowen then insist upon getting a rise, did he, in court?—Oh, yes, £9 rise he said he wanted.

66. Was that in open court?—Oh, it was.

67. What did you say, in open court?—I was not called up at all.

68. Did you say anything?—I told my counsellee to apply for time for me, that I had a young family, and my stock and I did not know where to go with them, and he applied for time, and the Barrister applied to Mr. Bowen would he give me time and Mr. Bowen said he would.

69. Was there four months time given?—Some time from about 1st January to the 15th April.

70. Do you remember a short time after the sessions Mr. Bowen meeting you?—Oh, he did, sir, within half a mile of the town.

71. Does he live near you?—He lives within about a small English mile of me.

72. Where did he meet you?—He met me within a quarter of a mile of the town of Kenmare.

73. Did he say anything to you?—He told me "Why don't you go down and take your land?" "At what, sir," said I; "At £9 rise." "I never can pay it, sir," said I, "Don't you see how hard up I am, and to have it at the £30, you know yourself I am hard up." "Well," said he "I won't let you have it at £30, and to have a lease." I said "I won't take a lease at £30."

74. Mr. Orr.—Say that again?—He said "Why don't you take your land at £9 rise." I said "I can never pay it, I am hard up, only paying £30." "If you don't take it, another will," said he; "and besides I won't let it if you don't take a lease." "I won't take a lease at £30," said I. "Well, don't come before me say any more about it."

75. Mr. O'Sullivan.—Did his dairyman, Harrington, come to you?—My wife went to him, and said —

76. You cannot say that. After that did Harrington come to you?—He did.

77. What did Harrington say to you?—Did Harrington bring you a message from Mr. Bowen, as he said?—He did.

78. What was the message?—According to what Harrington said, did you go to Mr. Bowen?—I did, sir.

79. Did Harrington go with you?—The message Harrington gave me was —

80. Harrington brought you a message?—He did, sir.

81. On account of that message did you go with him to Mr. Bowen?—I did, in a few days after.

82. Now when you went to Mr. Bowen, just tell what happened between you and Mr. Bowen?—I went to Mr. Bowen, myself and Harrington.

83. Judge O'HANAN.—You and Harrington together?—Yes, Harrington went with me as he was the messenger.

84. Mr. O'BRIAN.—Did you tell Mr. Bowen the message, Harrington brought to you?—I did.

85. Tell the court now what Harrington said to you, that you said to Mr. Bowen?—Well, Harrington came up to me and told me if I would not agree to the lease, not to go before Mr. Bowen any more.

86. A lease of what?—If I would not sign to take the lease.

87. At what rent?—At the £30, and to pay £40 rent, £40 of money, and I frightened when I heard

Dec. 12/1884.  
Edward  
Saffron.

talk of the £40, and I considered for a few days, and I should go then.

88. Did you go there—I did myself and Harrington, and we settled upon—

89. What did you say to Mr. Bowen, when you went in?—I told him what Harrington told me.

90. What did he say then about the £40?—We agreed then upon terms to give him £40 and £39 rent, and to allow me half the county, and to take a lease and I was arguing would I get any of the £40 allowed, and he would not, but I would get it when the lease would end in six last twelve months. For he was in dread that I could not pay the rent, and that I would run with twelve months' rent from him, and as he would get the £40, he would not be anything at a loss if I was broke up.

91. And you were to get it at the last year?—Yes.

92. I believe you did not go near him for some time?—I did not.

93. Do you remember on May eve Harrington coming to you again?—I do so very well, and so I ought to remember it.

94. What was the message he brought you then?—

“Mr. Bowen sent me up,” he said, “to tell you to be down before nine o'clock to-morrow, or if you don't be would throw yourself and your family out on the roadside.”

95. I believe that made you lively next morning!—Indeed it did, and even I did not take my breakfast I was in such a fright.

96. I believe you were with him at eight o'clock in the morning?—I was, and he asked me “why did you not come long ago and get your lease signed.” I said “I don't want any lease, yourself knows mighty well I cannot pay that rent and I am losing without a lease.” “You must take it” says he, “and now I am going to my breakfast, and if you don't make up your mind by my coming out, I will get up and get possession from you; you must give it to me.”

97. Did he go to his breakfast then?—He did.

98. He came out afterwards?—He said “Did you make up your mind since?” “The very same all through,” said I. “I will tell you now what I will do with you,” said he, because I said I had no money to buy the lease; he said “there is some costs about the decree, but I will forgive you that, if you buy the stamps for the lease.” On that I said I would go to my own attorney, to fill the lease, and he would not consent to any attorney but Mr. Maybury, for he was a cousin of his, first or second, I don't know which.

99. Then you bought this document?—I did; it was himself gave me writing to Mr. Mansfield who had them selling.

100. Did you give it to Mr. Maybury or himself?—To Mr. Maybury.

101. Do you remember when you gave him this document before it was filled in, was it in May?—It was 1st of May.

102. Did you hear anything about it until September?—Not a bit.

103. Then did they ask you to come to sign it in September?—They did, sir.

104. Mr. VERNON.—Who did?—Robert and John Bowen, the two were together.

105. Mr. O'BRIEN.—They asked you to come to sign it and then you came to sign it?—I did.

106. Judge O'HAGAN.—Is John Bowen living or dead?—He is dead, sir.

107. Mr. O'BRIEN.—You came then on the 29th September, 1874, to sign it?—Yes I did.

108. Was it then read to you for the first time?—It was read.

109. Who read it?—Mr. Maybury read it.

110. Is it this £40 is stated to be a fine, was that read to you?—Oh, yes, and when I heard of the fine, I was frightened to see my twelve months rent was made a fine of, and I did not agree to that, and he told me if I did not sign the lease to give him possession

111. So you had to sign it?—I had to yield to everything.

112. I believe you brought a capital into the place of £130?—I brought £130 into him besides my stock and, indeed, it did not hold me a bit too long there too, and I am out of it.

113. Have you the £130 now?—I have not, nor £1 of my own, and I borrowed the cost of coming all the way here, and two witnesses with me, I am here for the last four days.

114. Look you what do you consider the fair letting value of that farm as between man and man?—The rent that the man was paying before me, that was £18.

115. Mr. VERNON.—Who was that man—Mansfield?—Mansfield.

116. Mr. O'BRIEN.—I believe he had another holding adjoining this, on both of which he kept these eighteen cows?—Oh, yes, he had, and it was let to another tenant in three weeks' time.

117. But Mansfield had?—He had.

118. Of the improvements made there has Mr. Bowen done a part?—Not a bit, it was all done by myself, not a ha'porth. I asked ever for slates to slate an old house I have, and myself would build the walls and buy the timber, and I would not get the slates

119. So that all the improvements done since 1855 you did yourself?—Yes.

#### Cross-examination.

120. Mr. O'VER.—You live, if you had this land, at £18 a year, you could live and thrive?

Judge O'HAGAN said he had already expressed his opinion on that question in previous case.

121. Mr. O'VER.—You got this in 1855 from Mr. Bowen?—I did, sir.

122. And you had a promise of a lease from him for seventeen years at £30?—Yes, I had.

123. And although that lease never was executed you remained in possession for seventeen years at £30 without disturbance?—Was I not always at the mercy of the landlord?

124. And were you not there without disturbance for seventeen years?—I was.

125. With regard to this reclamation, you say you reclaimed seven or eight acres; what was it before you reclaimed it?—Some of it was not worth £1 an acre.

126. Was it rough grazing?—It was not rough grazing.

127. Was it useful for anything?—Cattle feed on barren land and mountain land.

128. Was it useful for any purpose?—I had to till it.

129. What was it before you tilled it?—It was barren land and wet land.

130. Was it used for any purpose?—The cattle used to run over it and feed on it.

131. Then it was grazing. How much of the eighty acres is arable, how much do you till?—I till about two acres of garden and two acres of oats, no more.

132. Do you mean to say that is the whole part of the farm you can till? Is that your evidence?—That is all, that is what I till every year.

133. But how much is capable of being tilled, how much of the whole farm has been tilled at different times?—I don't rightly understand you.

134. How much of that farm is capable of being tilled?—I will answer the question, but I don't rightly understand, because you have nice language and I cannot understand it.

135. You have got wonderfully stupid all of a sudden. Do you know the meaning of the word “tilled”?—I know mighty well how to till land.

136. And you know the meaning of the word “land”? Now, tell the court how much of that land is tilled every year?—I know how much land I till.

137. How much of it can be tilled?

138. Mr. VERNON.—How much can you break?—Of the barren land?

139. Of the whole eighty acres?—Is it tilling the land?

Dec 12, 1881.

Edward  
Sullivan.

140. Don't you know what breaking the land is?—I do, very well.

141. How much of it can you till out of the whole eighty acres?—It is not much.

142. But how much?—About a dozen acres.

143. Mr. Orr.—Do you mean statute or Irish?

144. Mr. VERNON.—Is it the little acres or the big acres?—The big acres.

145. Mr. Orr.—Somewhere about twenty of the little ones. Now, Mr. Robert Bowen or one of the Bowens came to you in May, 1872, for possession?—He did.

146. Did he tell you why he wanted possession?—Yes, at the ending of the lease I asked him where was the lease, why was it not filled. He said "oh, he fulfilled the time."

147. You thought though he had kept his part of the bargain you were not bound to keep yours?—That is not the way.

148. That is not the way you like to put it?—No.

149. Did he ever say any word to you of a new lease before you got the notice to quit?—Never.

150. Nor before the ejectment was served on you?—Never, but he asked a remission of rent.

151. And that was the whole dispute between you up to the ejectment proceedings?—He wanted the remission of rent, and I could not pay it.

152. Was not the whole quarrel between you up to the time the ejectment was served, the rise of rent?—Yes, sir.

153. At the courthouse in Kenmare he offered to let you stay on at a rise of £9 a year?—Yes.

154. Did you make any offer, or did your solicitor and counsel?—I did not.

155. Did any one on your behalf make an offer?—Friends were interfering and went to him, and the solicitor asked Mr. Bowen if did any one bid you £5? "Never," said he, upon his oath he denied it.

156. Did he offer to let you stay on at £9?—Yes.

157. And there was never anything about a lease then?—No.

158. Rents have been rising in that country since 1850?—They have been rising before, and would continue for ever, but for the laws that came.

159. But when a man gets a lease, the rent cannot be raised until the end of the lease, is not that a fact?—I did not care.

160. Am I stating correctly, is it a fact?—That is not the way in our country, there is no other lease within three miles of me, but this lease.

161. When a man gets a lease, especially for thirty-one years, his rent cannot be raised to the end of thirty-one years, is not that a fact?—It is, sir.

162. And it never entered into your head that when all these rises of rent were going on, it would be a good thing to get a term fixed that it could not be raised?—He did not expect it to go higher.

163. If you did not have a lease, and this present Land Act did not pass, which no one expected in 1872, he might have raised the rent again?—It was too high.

164. About this business of the £40. You went off to Mr. Maybury?—I did.

165. And there was nobody there present but yourself, I suppose?—He gave me a letter to give to him to fill the lease.

166. Are you sure he told you to go to Mr. Maybury?—He did.

167. And he mentioned the name Maybury?—He did.

168. Did he give you no reason?—He would not let me go to my own attorney.

169. Did you ask to go to your own attorney?—I did.

170. And he told you to go to Maybury?—That Maybury would do the business.

171. And there was nobody there representing Bowen when you went?—Mr. Bowen gave me a letter to Maybury to fill it on that condition.

172. Did you tell Maybury what the condition was?—I did not.

173. You just went in and gave him the letter and the stamp, and went away?—I did, sir.

174. You bought those stamps?—I did, sir.

175. And went into Maybury's office?—I went into his house.

176. You took the stamp and Mr. Bowen's letter, and asked for Mr. Maybury?—I did.

177. And you saw him and put down the stamp and letter and walked away?—He said he could not fill the lease as the letter stood because the letter was binding too much, he could not go only according to the law.

178. Then there was some conversation between yourself and Maybury?—There was that much.

179. Did you mention the £40 to Maybury?—I did not.

180. When did you mention it?—When he was to fill the lease.

181. Did you mention it before he had filled the lease?—I did not.

182. Why did you not say just now you had?—The two brothers had a difference and I would never have been bound to the lease, but the present landlord wanted to bind his brother before he got married; it is on the back of the lease.

183. Did you see Mr. Maybury more than once before you went to sign it?—I might see him.

184. But did you?—I see him often.

185. But did you speak to him about the lease more than once before it was executed?—I might, but he said the two brothers were not coming to any arrangement.

186. Do you swear you never mentioned the £40 on any of those occasions?—Oh, I did not until we went to get it filled.

187. Then Maybury must have put it in out of his own head?—No, sir; the lease was not filled until we were present, the two Bowens and I were together, and that is the day the lease was filled.

188. The lease is dated 29th September, 1874; do you say that the lease was filled up by Maybury on the same day on which you signed it?—Was I not looking at him writing it.

189. Is that your evidence that it was filled up on the very same day?—I saw him writing, I don't know how it was dated.

190. You have always been allowed half the county cess since the lease was executed?—Oh yes, sir.

191. Mr. VERNON.—Is this land in Tuosach? do you know the place called the Tuosach?—I don't, sir.

192. Where is this land?—It is near Kenmare.

193. Which side of the river?—On this side.

194. What is the usual mode of measuring rent in that country, how is it mostly settled?—Three times the valuation.

195. How is the rent generally settled between the landlord and tenant in that country, is it not by cow's grass?—It is, sir.

196. What do they generally reckon a cow's grass worth in that country?—£1 some of them and 10s.

197. Not at all—a cow's grass! When they are settling rent is it not by a cow's grass it is done?—Yes, so many cows.

198. What is the value put on a cow?—£2 or 30s. according to the landlord you are dealing with.

199. What is the usual run of cow's grass?—Something about £1, from that to £1 5s. and 30s.

200. What is it the other side of the river?—The same way, in the first there is a good land but in the mountains by place where I live.—

201. I am talking of the mountain; how is the rent generally settled on the mountain?—As I said.

202. By the cow's grass?—By the cow's grass.

203. What is the usual rent at which the cow's grass is calculated in the rent?—Where I live £1 a cow and 30s. a cow's grass and more, except under this landlord.

204. What is the common thing?—About 30s., some of them less and some of them more.

## Re-examination.

205. Mr. O'Riordan.—How many cows would you turn food do you know?—At present, sir.

206. Yes!—Oh, nine cows was a stint, but I used to feed them and buy meal and bran, and turnips and mangolds.

207. Mr. VERNON.—I think he said he fed twelve?—Yes, but it is my own pocket that is feeding them.

208. Mr. O'Riordan.—Now, you said in answer to this gentleman, that there were twelve large acres, twelve Irish acres of land that can be broken!—Oh yes, sir.

209. Of that twelve Irish acres, does that contain any part of the land you reclaims yourself?—I mentioned all, what I till and all.

210. I know, but of the land you reclaimed, is that contained in the twelve Irish acres?—There is about three acres.

211. Judge O'HAGAN.—Three acres of the reclaimed land you till?—Yes.

212. And the remainder you have in grass?—Yes, sir. I have acres and they are not worth 6d. A third of my land is not worth 6d.

213. Mr. Orr.—How many cows had you on this section?—Twelve.

214. Had you never more than twelve at a time?—I might have an odd cow.

215. How many odd cows had you?

216. Mr. VERNON.—How many odd cows had you besides the twelve?—I hadn't many more.

217. How many?—Six little calves I reared this year, making calves and four yearlings, they were not there until the last month.

218. Any two-year olds?—I have not, because I could not afford keeping them.

John HARRINGTON, sworn and examined.

Dec. 12, 1881.

Mr.—

Sullivan.

219. Mr. Orr.—When you say twelve cows, do you mean milk cows?—Yes.

220. Have you no stock besides the twelve milk cows?—No, except the yearlings.

221. Have you no other stock?—No.

222. Judge O'HANAN.—Do you reckon two yearlings to the milk cow?—No, four yearlings to a collop.

223. Mr. Orr.—Have you no horses or mares?—I have a horse; what business would I have without it?

224. Had you a mare and a foal?—She has not at present; she had a foal last year.

225. Was she and the foal on the lands this year?—Not at all, herself was there.

226. Herself only, but not the foal. How many cows does a mare equal?—Was it not in the first agreement eighteen milk cows and a horse.

227. Judge O'HANAN.—Is not a horse a collop and a half?—Yes.

228. Mr. VERNON.—How many collops is there in the whole holding?—I have not, but the twelve cows and a horse.

229. How many collops would you sell it?

230. Judge O'HANAN.—And the yearlings?—It was not there I had the yearlings, it was in a mountain.

231. Mr. VERNON.—Have you another farm?—No, but paying for grazing.

232. Do you now any part of it; have you any meadow?—I have.

233. How much?—About four acres.

234. Mr. O'FLOODON.—I suppose you want that for the cows in the winter?—I would, and if I had as much more.

John  
Harrington.

235. Mr. O'Riordan.—Do you remember the year 1874?—I do, sir.

236. Were you a dairymen to Mr. Bowen?—I was, sir.

237. Do you remember going with Sullivan's wife to him?—I do, sir.

238. Did Mr. Bowen upon that occasion give you a message?—He did, sir.

239. To bring to Sullivan; what was it?—I will tell you, sir, he told me to tell Sullivan to give him £30 rent and £40 of money, and that he should take a lease.

240. Can you fix the time about in 1874, that that was?—I cannot, I have no date for it but I carried the message.

241. Was it before the month of May?—It was, sir.

242. You carried the message to Sullivan?—I did, sir.

243. Did Sullivan send you a day or two after that go to Mr. Bowen?—We did, sir.

244. Will you just now tell the Court what occurred between you?—I can, sir.

245. Just tell his lordship and the commissioner?—They were fixing the thing then, sir, and Ned was saying would he get any of it allowed and Mr. Bowen said he would, he would allow it to him the last year.

253. Do you remember bringing him a message that he was to go up at nine o'clock, the following morning?—To the best of my belief I did, but I cannot bring it to my recollection properly.

253. Just tell us what occurred so that you can!—Telling him to come up and get a lease.

254. Do you remember anything about the roadside?

Mr. Orr.—That is leading.

255. Mr. O'Riordan.—At all events you brought him another message about the lease. Have you got a tongue?—I have, sir.

256. Will you tell us what the message was?—Oh, to take out a lease as I told you.

257. Anything more?—He did not say anything more to me.

258. Mr. Bowen did not?—No.

259. What did you say to Sullivan?—I told him the message.

260. What did you tell him?—I told him what Mr. Bowen told me.

261. What was that?—To agree about his lease.

262. I believe you were not there after that with him?—I was not indeed.

263. Do you know the farm?—I do.

264. Did you know it in 1880?—I did.

265. What condition was it in then when he got it, you know you were a dairymen, and an experienced man?—He improved a great deal of it.

266. He has improved it very much!—Of course he did.

267. Mr. VERNON.—Why do you say "of course," are they all improving tenants there?—I saw the land improved.

268. Mr. O'Riordan.—How many cows do you think it would rear?—About twelve.

269. Should they be hand-fed to rear them?—He must set crops to support them.

270. And they must be hand-fed to support the twelve?—Yes.

Aug. 12, 1873.  
John Harrington.

271. In that part of the country how is land let, is it by the cow?—By the cow.  
 272. What would be the letting value of that land on the mountain?—Under Lord Lansdowne it would be about £1 a cow.  
 273. Mr. VERNON.—What is the rate by the cow on the Marquis' estate?—About £1 a cow.

274. Mr. O'BRIERON.—You heard him say that there were twelve Irish acres, some of which he had reclaimed, that could be broken up, taking the whole farm together what would you consider by the cow the fair letting value?—I suppose if it was with other landlords about £1 a cow.

275. Would you consider £1 10s a fair price for his farm?—It would be a good rent.

276. Do you think it a fair rent as between man and man?—That is what I think.

277. Are you a dairyman still?—I am not.

278. When did you cease to be a dairyman to Mr. Bowen?—About two or three years ago.

279. Mr. VERNON.—How much butter will a cow make on that land?—Something more than a firkin.

280. That is 80s. Is it not?—I don't think so.

281. What do you call a good firkin in Kenmare?—I suppose a good firkin would make £3, some would not make £2, often we sold a firkin for 30s.

282. What is the top price for flocks?—I don't know, sir.

283. You are a dairyman and must know your own trade, what is the top price in Kenmare?—There is no better selling there, except by the pound.

284. What is the top price in the season?—About 10d or 1s. 1d.

Mr. O'BRIERON.—There is no better market in Kenmare.

285. Mr. VERNON.—Well, you have been in Cork market?—I never was, nor in Dublin, until this week.

#### Cross-examination.

286. Mr. O'R.—How long is it since you ceased to be a dairyman to Mr. Bowen?—About three years.

287. Under what circumstances did you leave?—We did not agree on terms.

288. Why did you not agree?—Because I could not meet my demands and had to leave him.

289. Did you happen to be in arrear?—I suppose if our accounts were made up we might be regular.

290. Did he state to you you were in arrear?—He did.

291. And that was the reason he sent you away?—Yes.

292. You say that about £18 a year would be the proper rent for this farm?—According to Lord Lansdowne's estate.

293. Twelve cows at 30s. which would be £18?—Well, I may under Lord Lansdowne, every nine or ten cows would be £9 or £10.

294. Then when he took a lease for seventeen years at £30 he made a bad bargain!—That is it, sir.

Mr. O'R.—You may go down.

Robert Bowen.

#### ROBERT BOWEN, sworn and examined.

295. Mr. O'R.—You are the landlord in this case?—Yes.

296. Have you got the book there with an entry of the agreement of 1855 in it?—Yes.

297. Now whose handwriting is that in?—That is my father's handwriting, William Bowen's handwriting.

298. That is the William Bowen who made the agreement with Sullivan?—The same person.

299. Now will you just read to the Court the terms of that memorandum (book handed up to Court). There is a statement there, Mr. Bowen, that £5 was to be allowed back?—Yes.

300. Can you tell anything about that?—He advanced £5 on the occasion of the agreement, and that was to be allowed back at £1 a year.

301. Have you examined the books with reference to the rent of this holding?—Yes.

302. And are you able to state the £5 was allowed back?—I am quite aware of it and the book records it too.

303. Mr. VERNON.—The rent received appears to be precisely the sum reserved that is £15 each half-year?—That £5 was not to be allowed for six years after the commencement of the agreement.

304. Referring to the next page, page 11, I don't find it there!

305. Mr. O'R.—You say that £5 was allowed?—It was.

306. Mr. O'BRIERON.—Do you know it of your own knowledge?—I do.

Mr. O'R., solicitor.—I find on the 5th of May, one year "Cash £14 10s, amount allowed out of the May gale of 1851, for cash advanced 10s," and that goes on.

307. Mr. O'R.—Sullivan remained on without disturbance until May, 1872?—He did.

308. And that was the time when the seventeen years expired?—When the seventeen years expired I considered his agreement was ended.

309. Have you got your rent book there?—Yes, Mr. O'R. has it there.

310. Now, Mr. Bowen, I want you to tell me when the gale that occurred due on 1st May, 1872, was paid?—18th November, 1872, "By cash from Edward

Sullivan, which pays off his half-year's rent due and ending 1st May, 1872."

311. That cleared him off up to the end of the agreement and no further, is that correct?—That is correct.

312. When was the next payment of rent by Sullivan to you after that?—23rd October, 1873, "By cash from Edward Sullivan in discharge of his year's rent due ending 1st May, 1873, £29 10s. 2d., and poor-rate 13s. 10d."

313. That you say was in October, 1873?—23rd October, 1873.

314. That was after the notice to quit was served?—Yes.

315. Now he says, and says correctly, that in May, 1872, you went and demanded possession?—Yes.

Judge O'HAGAN.—He read the wrong entry, the right entry is this "18th August, 1874, by cash from Edward Sullivan, which pays off his half-year's rent due 1st November, 1873."

Mr. O'R.—There was no rent paid after the expiration of the agreement until October, 1873.

Judge O'HAGAN.—The dates are these, 23rd October, 1873, there is £30 paying the rent up to the 1st May, 1873; on the 18th October, 1874, there is £15 paying the rent up to 1st November, 1873; and on 9th February, 1875, there is a further payment of £15 paying the half-year's rent up to May, 1874, and that is the last payment on the old rent.

316. Mr. O'R.—You went and demanded possession after May, 1872, when the agreement had expired?—Yes.

317. Did you tell him why you demanded possession?—I told him that the agreement under which he held had expired, and that I was entitled to get the land, I having fulfilled my part of the agreement fully.

318. And he says there was no mention of a lease between you at that time?—No.

319. And he was afterwards served with a notice to quit?—He was to terminate the possession.

320. And the ejectment came on at the Kenmare Sessions?—Yes.

321. Will you tell us what occurred in the court-house after the decree was granted?—Before I left the

witness table, Counsellor Murphy—he was Sullivan's counsel—when the decree was pronounced. "Now," said he, "we will give £35 for that land." I was merely acting as agent for my brother at that time, and I could not take upon me to give him an answer on that occasion, and I told him I would consider about it.

322. Was anything said about a lease then?—Not a syllable more occurred on that occasion.

323. What was the next thing?—We, on different occasions, had had conversations about taking the lease. On that occasion Sullivan applied to the court to stay execution for a time. The Chairman said he hadn't it in his power, but he could apply to—I was the person mentioned, and I gave him very freely up to the 15th of April, in his hearing, and made the remark that we might in the meantime agree. The Chairman turned round and asked me would I give permission, and I cheerfully did!

324. What was the next interview you had with Sullivan?—I cannot say how soon after, but we met on different occasions from that until April 15th, and had different conversations about the re-taking.

325. What was the dispute between you about?—There was no dispute, it was about the re-taking.

326. What did you not agree upon?—We did not agree upon the rent.

327. What was the sole dispute between you?—No other dispute.

328. Finally, it was agreed he should pay £39?—The final agreement was he should pay £39 rent, and £40 fine, and take the lease, if he chose, under that agreement.

329. Can you recollect when the lease was first mentioned, or how it came to be mentioned?—We might have mentioned it casually at our different meetings. I am sure that I tendered him the lease as an encouragement.

330. Did you ever threaten that if he would not take a lease you would turn him out?—Not a word about it; it was a matter of indifference to me whether he took a lease or not, it was merely a safeguard to protect his £40.

331. Judge O'HANAN.—You may have mentioned the lease to him as an encouragement?—Just so, my lord.

332. Mr. Orr.—Did you give him to understand that if he agreed to pay you the £39 per annum—did you tell him that if he was to pay £39 a year he might stay on if he chose?—Certainly.

333. Did you authorize Harrington or anyone else to threaten him, that if he did not take a lease he would be turned out?—I never threatened, I was most kind to him on every occasion, even the costs of the ejectment and some other costs I struck out.

334. With regard to the £40 you say it was a fine, he says it was to be allowed at the half rent?—I never heard it until this moment.

335. There was a notice served on you in this case, dated 20th November, in the present year, in which he says something about this sum of £40, "which on the execution of the lease in question the tenant paid to you as security for the last year of his rent," you got that notice?—I understood Mr. Orpen got it, I never saw it.

336. But do you say positively that was to be a fine?—Oh, yes, a fine.

337. As regards the preparation of the lease, was Mr. Maybury your solicitor?—He was not, he was employed by Mr. Sullivan to fill the lease.

338. Did he act as your solicitor?—On some occasions, in the Civil Bill Court, I might have employed him, but Mr. McCarthy Downing was my solicitor.

339. Do you remember who were your solicitors in the ejectment?—Mr. Downing was then.

340. It was on the 1st of May he came and agreed to take a lease?—Yes, some days previous to May.

341. He says you told him to come up on May 1st?—He came to me on May 1st. I sent to him to

know was he perfectly satisfied with the agreement, and he came down himself to me. "I am quite agreed" he said "But I have not the fine at present, not the entire, if you would be kind enough to hold off I would be able to make it myself without raising it from a merchant," because farmers in the summer are in the habit of borrowing from merchants. I told him I would cheerfully, and in the September following, he came in with the fine and executed the lease.

342. He says you told him to go to Maybury?—He is the local attorney in the neighbourhood and does such things, I have no more preference for Maybury than anyone else.

343. Did you give Mr. Maybury instructions?—I did. When I understood he was filling the lease, I instructed him about the covenants, the same as I have under Mr. Orpen, and I gave him the advantage that after twelve years he might let a part of the land to one of his sons, but he was not to charge me with any building on it.

344. When did you hear the lease was filled up?—Immediately before we went to have it perfected.

345. Was it sent to you before that?—I don't think it was.

346. You went to Mr. Maybury's office?—I went there, and Sullivan; and the lease was read out in the presence of both of us.

347. Was the lease prepared when you went there?—Yes, it was fully perfected before us.

348. He says he took an objection to this £40 being stated as a fine?—I never knew it, and you have Mr. Maybury's letter there.

349. You say you held under Mr. Orpen?—Yes.

350. And Mr. Orpen, I believe, holds under Trinity College?—He does.

351. At this very time was Trinity College threatening to raise their rents?

Judge O'HANAN.—You must ask him some fact within his knowledge.

352. Mr. Orr.—Had you got any intimation from Mr. Orpen that your rent would have to be raised. Did anything occur between Mr. Orpen and you with reference to your lease?—I got a notice sometime ago stating Trinity College was about raising rents.

353. When was this notice?—As I have not the notice, I cannot say.

354. Was it before or after this agreement?—I think it was after.

355. Mr. VERNON.—You used one expression here, "I think that I might give him a lease as an encouragement." Do you consider a lease at three times Griffith's valuation, and a fine of £40 is an encouragement?—I think so, my lord.

#### Cross-examination.

356. Mr. Riordan.—Mr. Bowen, it is quite plain you are a reasonable man. At the Sessions, do you remember, in December, you said you raised the rent by 20?—I did not say it.

357. You deny that?—Fully; there was not a syllable about it.

358. You did not say a word at the Sessions, about raising the rent?—Not a syllable at all.

359. Had you any intention of raising it then?—I cannot tell you—I had.

360. You met him in about a fortnight after the Sessions, you heard him swear it, is that true?—I cannot tell you what time, how long after.

361. But you met him at all events?—I met him on many occasions.

363. We will take the first occasion. Did you then say to him "You must pay £39 for the land"?—It might have occurred, I won't say positively, I suppose it did.

363. And did you say then "You must take it at that rent and a lease"?—I said I would give him a lease.

364. You must answer my question. You heard that man swear it, and you may contradict it if you

Q

Dec 22, 1881  
Robert Bowes.

like—I will say nothing but what I believe is a fact.

365. Did you say "You must pay a rent of £39 and take a lease?"—I said I would give him a lease.

366. Sure I know you would—That is what I said.

367. Upon your oath did you say to him, "You must pay £39 and take a lease?"—I did not say he must take a lease.

368. Would you let it to him then at the £39 as a yearly tenant?—I would.

369. You swear that?—I do.

370. Was it spoke about a lease or you just?—I think it was L.

371. And so do I. Then the mention of the lease came from you?—Yes.

372. He did not speak about a lease—come now?—I should think not, I think it came from me first.

373. Did he not say, upon your oath, on that occasion, that he would not take a lease even at the old rent of £30?—No, he offered me £35, as I told you he offered me £35 on the table.

374. He did not?—Well, his counsel did.

375. Did he not say he would not take a lease at the old rent; upon your oath?—I know I am on my oath—I don't recollect it.

376. Did you hear him swear it here to the court?—I did.

377. Will you swear it was a lie?—I will not.

378. Now, sir, do you remember his wife coming with your dairyman, Harrington, to you?—I do not; she may have come but I don't recollect it.

379. Did you say this to himself on that first occasion that unless he was prepared to pay you £38 not to come after you?—I did not, as far as my recollection leads me, and I don't think such a word would come from me.

380. Will you swear you did not say that to him?—To the best of my opinion, I could not say such a word to anyone.

381. Will you give me an answer one way or the other?—I tell you I could not say it, and I know I did not say it.

382. Did you send Harrington to him to tell him he would get the land at £39 and he should pay £40 in hand and take a lease?—I sent Harrington to know was he satisfied with the agreement, because we had it made.

383. You had not at that time?—This was a day or two before the last of May.

384. Before that did you send Harrington to him saying you would give him the land at £39 that he must pay £40 in hand and take a lease?—When I sent him to him it was a day or two before the last of May.

385. Did you send him to him before that?—I think not.

386. Then when was the first mention of the £40?—I cannot say, because my opinion was £30 was asked.

387. That you asked?—I did not ask it at all, because I was acting as agent for my brother, I did it all.

388. When did you first mention the £40 to him?—As I told you before, I think it was £30 was asked first, but we had different meetings.

389. When did you first mention the £30, we will take you your own way if we can?—At the commencement it was my brother spoke of that £30.

390. I thought you said it was you did it all?—He did it and I did it for him.

391. Mr. VERNON.—Which of you did it?—He was standing by at the time, we were both together.

392. Mr. O'Riordan.—Did you hear Harrington swear a while ago that you sent him to Sullivan telling him he must pay £39 rent, with £40 in cash, and take a lease?—I heard him swear it.

393. Did you send him with that message?—I did not, but I sent him to know was he satisfied with the agreement.

394. And when was the agreement made before the last of May?—Some short time previous. He had a stay of execution until April 15th, and some time probably from that time, those few days we finally agreed.

395. I want you to tell me about the £40, when was that first mentioned?—It was brought to £40 at the last agreement.

396. Did you send Harrington to him twice?—I think not. I don't recollect I did.

397. Did you hear Harrington swear you did. Did you hear Sullivan swear you didn't?—He may have sworn it.

398. Is it true or untrue?—I won't contradict him; I won't say one word that way, let the court judge.

399. Now, you sent Harrington to him on May Eve, 1874?—Yes, very likely.

400. And was not this your message, to tell Sullivan that if he did not sign the lease by nine o'clock the following morning he would be thrown out on the roadside?—Not at all; no, indeed.

401. You never said it?—I am not such a tyrant as to send such a message, that would be one of the greatest tyrannies a man could be guilty of, to send such a message to a poor man.

402. When you first met him after the Sessions and said he must pay £9 additional rent, did you say one word then about £40 or £50?—I cannot tell you, but the result of the agreement is what I told you.

403. Upon your oath, after your meeting him after the Sessions, did you mention a word about £40 or £50?—The fine was always mentioned.

404. Did you upon that occasion, when you said you would raise the rent by £8, upon your oath, did you say a word about a fine?—It was always mentioned as well as I recollect, I cannot exactly define what occurred seven years ago.

405. You are an intelligent man and understand my question perfectly, will you give an answer. I want to test your accuracy, I say nothing about your veracity. Upon your oath did you say a word about a fine on that occasion?—I must have said so.

406. Is that the only answer you will give?—I cannot give you a better answer, it would be out of the question I could give the exact words used seven years ago at a casual meeting.

407. Did you give the message that he must come to you before nine o'clock that morning?—I did not.

408. Did you mention any hour?—I did not.

409. Did he come to you on the last of May morning?—He did.

410. Did he come to you before nine o'clock?—I cannot tell the hour.

411. Did he come before you had eaten your breakfast?—I cannot tell, it was some time in the morning.

412. Did you hear what the man swore, that you came down to him and said he must make up his mind before you eat your breakfast?—I don't think it occurred.

413. Well you swear it did not?—I would, almost.

414. Did you then go in to eat your breakfast?—I cannot tell you that.

415. And when you came down stairs again did you say he must make up his mind?—I did not.

416. And that he must give up possession?—There was no occasion for that, because he said he was satisfied.

417. That was in May, and then he bought the stamps and gave them to Mr. Maybury, and Mr. Maybury was the local solicitor?—Yes.

418. And Mr. Dowling, who stood for you at the Sessions, lives at Tralee?—At Killarney.

419. You heard him swear you gave him a letter

JAN. 12, 1884.

Robert Brown.

to Mr. Maybury!—I gave him the heads of the reservations in the lease.

431. And Mr. Maybury is alive!—Yes.

432. Living near you!—Yes.

433. You and Mr. Maybury are friends!—The best of friends.

434. Upon your oath, had you any communication with him between that and September, when he was brought in to sign the lease!—I don't think I had; the agreement was perfected, it was ended there.

435. On the 29th of September he was sent for to come in and sign the lease.—He was not sent for, he had the money convenient and came down, and had his lease perfected.

436. How was it you met together at Maybury's in that way!—We met by appointment. I am not sure it was Mr. Maybury intimated to us the leases were ready; I suppose it was.

437. You heard him swear that when the leases were read in his presence he complained of the fine!—Not a word about it.

438. That is quite untrue!—Quite untrue.

439. When did your brother die!—More than two years ago.

440. You and your brother had a dispute about the rent!—Never.

441. You never had a dispute!—Never, it was never there was not.

442. Mr. VERNON.—When was the fine paid!—It was paid at the execution of the lease, my lord.

443. Judge O'HAGAN.—You stated, in answer to Mr. O'Rourke, that the payment of £40 or £50 was mentioned all through!—All through, on every occasion.

444. Was it not when mentioned—mentioned as a fine!—As a fine.

445. A fine on a lease!—Yes.

436. Therefore a lease was on your mind all through!—Certainly.

437. Mr. VERNON.—What is the usual rate of cows' grass in Kerry!—About £2 10s. might be the average in my neighbourhood.

438. Is that in low land!—No, not exactly in low land; it is as high as £5 on some lands; it varies a little, but that might be about the average.

439. Would you say that was the rate on the Marquis of Lansdowne's estate!—No, Lord Lansdowne has a good deal of inferior land, and his lands are very cheap.

440. Is not this inferior land!—No, a fine farm.

441. How does it come to be only rated at £13!—I cannot tell you. I have a farm myself and nine fine milch cows on it, and the valuation is only £5 10s.; in fact the valuation there is ridiculous, and now the tenants are taking advantage of it and turning round on the landlords.

442. How do you hold yourself!—I hold under Mr. Orpen here; I hold in the same way as he holds from the Board of Trinity College.

443. Are you a *tithe* tenant?—It was formerly in that form, but it is now held in perpetuity.

444. Have they a right to raise your rent!—Yes, according to the price of commodities.

445. What do you pay an acre!—I pay a gross sum; I pay £50 a year over the valuation of my holding, that is, 50 per cent. over the valuation.

446. If I took the figures right, the tenant pays you 300 per cent.!—He might, but I would have your landlords understand I hold about 200 acres of mountain, bog and everything as it is, and 500 acres of it are not worth £1. an acre, and the rent falls entirely on the rest of it—on these farms.

Judgment reserved.

DENIS GODLEY.

IRISH LAND COMMISSION,

24, UPPER MERRION-STREET, DUBLIN,

5th February, 1884.

